
**BUTTE LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER’S REPORT**

TO: Local Agency Formation Commission

FROM: Shannon Costa, Local Government Planning Analyst

SUBJECT: *LAFCo File 20-10 – Lake Oroville Area Public Utility District – Ophir Road Annexation No. 2*

DATE: August 27, 2020 for the September 4, 2020 LAFCo Meeting

Summary

The Lake Oroville Public Utility District (LOAPUD) is proposing the annexation of a single parcel to the LOAPUD service area. Upon request of an adjacent property owner, staff recommends that the annexation include an additional single parcel and adjacent road right-of-way located directly south-adjacent to the territory (see **Exhibit A**). The territory is located at the southwest corner of the intersection of Ophir Road and Lincoln Boulevard, south of the City of Oroville. As modified, the overall territory would be 12.65 acres in size. This uninhabited annexation (12 or less registered voters) would allow the Lake Oroville Area Public Utility District (LOAPUD) to provide sanitary sewer service to the existing development within the territory; future development within the territory would have to conform to the zoning and general plan regulations administered by Butte County. The proposal substantially conforms to LAFCo policy and the Executive Officer recommends approval of this proposal.

General Information

Application Submitted: June 22, 2020

Application Deemed Complete: July 22, 2020

100% Landowner Consent: Yes

Notice and Hearing Required: No

Proponent: Lake Oroville Area Public Utility District Board, by Resolution 05-2020

Landowner: Lazzareschi Investment Co. Partnership, c/o Michael Lazzareschi (Parcel 1)
Thomas Butler and Scott Perkins (Parcel 2)

Location: The territory is located on the southwest corner of the intersection of Ophir Road and Lincoln Boulevard, south of the City of Oroville. The territory is located in Supervisorial District 1.

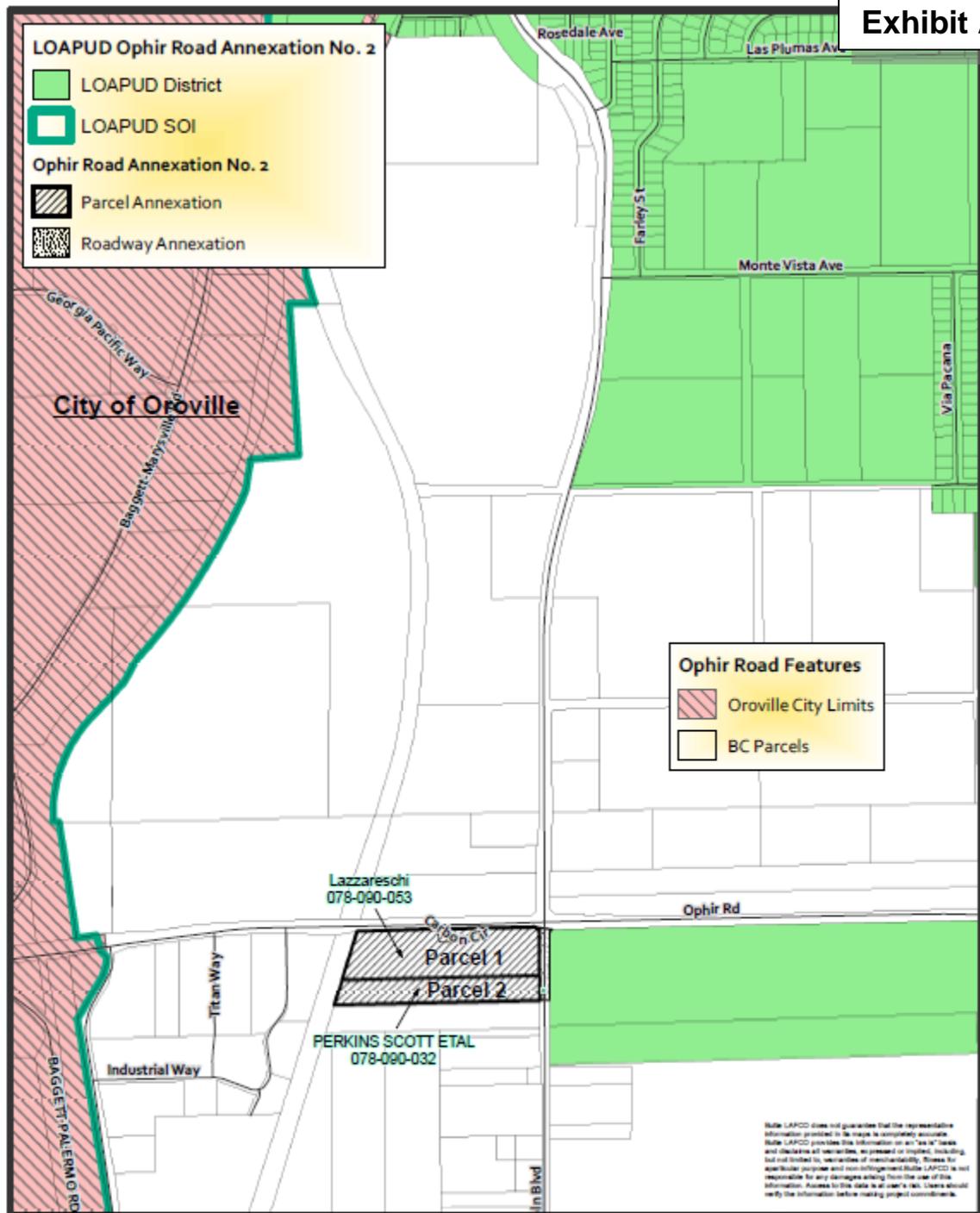
Proposal:

1. Proposed annexation of a single substantially developed parcel (APN 078-090-053) approximately 7.82 acres in size and adjacent road right-of-way to the LOAPUD; and
2. Amended by Staff to include an additional partially-developed parcel (APN 078-090-032) and road right-of-way, totaling approximately 4.83 acres in size to the LOAPUD.

Requested

Action: Adopt Resolution 02 2020/21 (**Exhibit B**) approving the annexation.

Exhibit A



Butte Local Agency Formation Commission

LOAPUD - Ophir Road Annexation No. 2

Applicant: LOAPUD	Date: September 3, 2020 @ 9:00 a.m.	File: 20-10	 LOAPUD Ophir Road Annexation No. 2 0 250 500 750 1,000 Feet c:\projects\lafb_projects\lafb_loapud_ophir_rsd_20_10\loapud_ophir_rsd_20_10.mxd Date: LOAPUD, LAFCO, Butte County
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BACKGROUND

Proposal

LOAPUD and the affected property owner of Parcel 1 initiated the annexation by resolution of application (see **Exhibit C**). The proposal included the annexation of a single parcel located on the southwest corner of the intersection of Ophir Road and Lincoln Boulevard to the Lake Oroville Public Utility District (LOAPUD) for the purpose of providing sanitary sewer services to the existing commercial/industrial use at the territory (All Metals, Inc.). Upon request of the adjacent property owner (see **Exhibit D**), staff is recommending one additional parcel and adjacent road right-of-way to be added to the annexation proposal for the purpose of providing sanitary sewer service to the existing single-family home, and to support a more efficient provision of services. The territory is within the Sphere of Influence for LOAPUD and the nearest boundary of the LOAPUD district is immediately to the east, on the southeast corner of the intersection of Lincoln Boulevard and Ophir Road.

Existing Conditions

The territory is located at the southwest corner of the intersection of Lincoln Boulevard and Ophir Road in unincorporated Butte County, south of the City of Oroville. Parcel 1 is substantially developed with an approximately 67,700 square foot building which has historically been used for the fabrication and distribution of metal and industrial hardware (All Metals Supply Inc.), surrounding parking and landscaping. The 7.82-acre parcel is zoned GI (General Industrial) and is identified as I (Industrial) in the Butte County General Plan.

Parcel 2 is developed with a single-family home and surrounding residential landscaping. The parcel is 4.83 acres in size, zoned MU-1 (Mixed Use, 1 acre minimum) and is identified as MU (Mixed Use, 4 – 20 units per acre) in the Butte County General Plan. While no further development of the parcel is proposed or known this time, the zoning and General Plan Land Use designation (MU) would allow for a variety of residential and commercial uses under the authority of the Butte County Department Development Services. Further analysis of potential environmental impacts related to any additional development would be considered by Butte County and evaluated when proposed. Additionally, LOAPUD will require any new development to complete a Capacity Study by the Sewerage Commission – Oroville Region (SC-OR).



Ability to Serve

LOAPUD provides sewer collection and conveyance services in the unincorporated areas of Butte County generally to the south and east of the City of Oroville. Sewerage treatment is provided by Sewerage Commission – Oroville Region (SC-OR), a regional wastewater treatment plant. In 2009, SC-OR adopted a policy that requires all proposed developments of twenty or more residential units, or commercial/industrial developments with equivalent wastewater flows, to prepare a site specific “Capacity Impact Study” to assess the impact of the proposed development on SC-OR’s capacity. The study would also determine whether any necessary expansion or other modification or improvement of capacity in SC-OR’s Regional Facilities are required as a result of the development’s impacts. The developer would be required to enter into an agreement with SC-OR to construct or finance any capacity improvements needed to SC-OR facilities as a result of the development. For Parcel 1, LOAPUD has already provided a Sewer Availability Letter, confirming that no impact study or mitigation would be required. Prior to connection to service, LOAPUD would require confirmation from SC-OR that no impact study or mitigation is necessary for Parcel 2.

Currently there is no LOAPUD infrastructure in the vicinity of the annexation territory and as a matter of policy, LOAPUD requires infrastructure installation to be sited and sized to serve all parcels within a natural watershed. To serve the annexation territory, a mainline extension, regional pump station, and force main facilities with the capacity to serve a much larger basin would need to be installed. At its August 25, 2020 meeting, the Butte County Board of Supervisors approved a resolution authorizing an application to the Local Early Action Planning (LEAP) Grants Program, seeking funding to improve infrastructure in the South Oroville/Las Plumas area. Funding would support the preparation of plans and environmental review for the Las Plumas Area Gravity Sewer Interceptor to facilitate housing in the area, including the annexation territory. The South Oroville/Las Plumas area is identified for growth (2,500 new dwelling units) in the Butte County General Plan as well as the LOAPUD Municipal Service Review and Sphere of Influence Plan, and is assumed in the respective Environmental Impact Reports (EIR).

At its October 3, 2019 meeting, Butte LAFCO approved a request for annexation to the LOAPUD to support the mixed-use development of two parcels located directly east of the annexation territory (APNs 078-090-043 and -044). Development of that site would include 118 single-family dwellings, 28 multi-family units on 14 duplex lots and 4 lots (40,000 sq. ft.) of commercial space on the property. This project is delayed until the regional sewer solution is implemented as discussed above.

DISCUSSION AND ANALYSIS

Pursuant to Government Code Section 6400 – 6830 (Health and Safety Code), the boundaries of a sanitary district may include incorporated or unincorporated territory and contiguous or noncontiguous territory. The proposal was initiated by LOAPUD and the affected property owner to allow the extension of LOAPUD sanitary sewer services to the territory. According to the Butte County Elections Office, there is one registered voters within the proposal area. Given this information, the proposal area is considered an uninhabited annexation (12 or fewer registered voters). The annexation has 100% landowner support.

Individual Factors for Consideration

Government Code §56668 provides a list of factors to be considered in the review of a proposal. The Commission’s review shall include, but is not limited to, consideration of these factors:

- a) **Population and population density; land area and land use; assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; and the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years:**

The territory is within the unincorporated area of Butte County, south of the City of Oroville. The topography of the area is flat to slightly rolling. Parcel 1 is 7.82-acres in size, is zoned GI (General Industrial) and is identified as I (Industrial) in the Butte County General Plan. The parcel is substantially developed with an approximately 67,700 square foot building which has historically been used for the fabrication and distribution of metal and industrial hardware (All Metals Supply Inc.), surrounding parking and landscaping. Parcel 2, located directly south-adjacent to Parcel 1, is 4.83 acres in size, zoned MU-1 (Mixed Use, 1 acre minimum) and is identified as MU (Mixed Use 4 – 20 units per acre) in the Butte County General Plan.

Surrounding land uses include vacant land to the north, east and west that is zoned for Mixed-Use development (4 to 20 u/ac) by the Butte County General Plan and other existing light industrial use to the south. At its October 3, 2019 meeting, Butte LAFCO approved a similar request for annexation to the LOAPUD to support the development of two parcels located east of the annexation territory. Development of that site would include 118 single-family dwellings, 28 multi-family units on 14 duplex lots and 4 lots (40,000 sq.ft.) of commercial space on the property. The South Oroville/Las Plumas area is identified for growth (2,500 new dwelling units) in the Butte County General Plan, and is assumed in the Environmental Impact Report (EIR).

- b) **The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; and probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.**

The need for organized community services in the annexation area is to support the continued use and future expansion of the existing industrial/commercial use of Parcel 1 and continued single-family residential use of Parcel 2, consistent with the Butte County General Plan. A detailed review of the adequacy and capacity of LOAPUD's sewer services was analyzed in in the 2013 Municipal Service Review and Sphere of Influence Plan. The municipal service review indicates the District will have the capacity to provide sanitary sewer service to areas within the District's SOI. Infrastructure improvements needed as a result of the annexation will be privately funded.

- c) **The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.**

The proposed annexation will support the existing commercial/industrial use and further development of Parcel 1 and continued single-family residential use of Parcel 2, consistent with land use designations identified in the Butte County General Plan. The alternative action to include the additional parcel and road right-of-way will promote efficient delivery of services. No impact to local government structure is anticipated.

- d) **The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities regarding open-space land conversion.**

The proposal involves the annexation of the territory to the LOAPUD for the purpose of providing sanitary sewer services to the existing commercial/industrial and single-family residential uses within the territory. This proposal is consistent with Butte LAFCO policies that encourage consistency with Spheres and Municipal Services Reviews (4.1.1),

determining the services provider with the optimum combination for service cost and service level (4.2.1) and consideration of the agency's ability to deliver adequate, reliable services without the potential to diminish the level of service to the agency's current jurisdiction (2.7). Policies and priorities regarding open-space land conversion do not apply to the proposed annexation, as areas surrounding the territory are not identified as open space, resources conservation or for agricultural uses in the Butte County General Plan.

e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands.

No agricultural uses are found in the territory or on the surrounding parcels. Annexation of the subject territory would not contribute to the loss of agricultural lands.

f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

The subject territory is parcel specific, with definite and certain boundaries. There are no conflicts with lines of assessment or ownership. The subject territory is legally uninhabited. The only changes to existing jurisdictional boundaries will be to the Lake Oroville Area Public Utility District.

g) A regional transportation plan

The Butte County 2016 Regional Transportation Plan/Sustainable Communities Strategy was adopted December 8, 2016. The proposed annexation does not conflict with any projects, policies or programs identified in the Plan.

h) Consistency with city or county general and specific plans.

The territory is within the unincorporated area of Butte County, south of the City of Oroville. Parcel 1 is 7.82-acres in size, is zoned GI (General Industrial) and is identified as I (Industrial) in the Butte County General Plan. The parcel is substantially developed with an approximately 67,700 square foot building which has historically been used for the fabrication and distribution of metal and industrial hardware (All Metals Supply Inc.), surrounding parking and landscaping. Parcel 2, located directly south-adjacent to Parcel 1, is 4.83 acres in size, zoned MU-1 (Mixed Use, 1 acre minimum) and is identified as MU (Mixed Use) in the Butte County General Plan. While no further development of the parcel is proposed this time, the zoning and General Plan Land Use designation (MU) would allow for a variety of residential and commercial uses under the authority of the Butte County Development Service Department. The South Oroville/Las Plumas area is identified for growth (2,500 new dwelling units) in the Butte County General Plan, and is assumed in the Environmental Impact Report (EIR). Further analysis of potential environmental impacts and a Capacity Study by the Sewerage Commission – Oroville Region (SC-OR) could be required prior to development.

The proposed annexation would support the continued use of the commercial/industrial and single-family residential use of the territory, consistent with land use designations identified by the Butte County General Plan.

i) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

The territory is within the Sphere of Influence for the City of Oroville and the Lake Oroville Area Public Utility District. The City of Oroville provides wastewater collection services to parcels within its jurisdictional boundaries. In the case of the proposed Ophir Road

annexation, LOAPUD is the most logical wastewater collection service provider for the territory as annexation to the City of Oroville for municipal services is not desired or feasible at this time. The annexation proposal does not conflict with the Sphere of Influence of any agency.

j) The comments of any affected local agency.

On July 30, 2020 LAFCo staff circulated copies of the application materials for review and comment from local public agencies. Comments were provided by the Butte County Assessor's Office, Butte County Auditor's Office, Butte County Elections Office, Sewerage Commission – Oroville Region (SC-OR), and South Feather Water and Power. Comments were ministerial in nature; no substantive comments related to the project were received.

k) The ability of the receiving entity to provide the services.

LOAPUD, through its resolution of application, attests to its ability to extend sanitary sewer services to Parcel 1 for annexation without impact to existing LOAPUD customers. Upon annexation and prior to connection to LOAPUD services, Parcel 2 would be required to obtain a Sewer Availability Letter from LOAPUD, addressing treatment plant mitigations.

Sewerage treatment is provided by Sewerage Commission-Oroville Region (SC-OR), a regional wastewater treatment plant. SC-OR, in a letter to LOAPUD, did indicate that a capacity impact study will not be required for Parcel 1; it is anticipated that further development of Parcel 2 would require a capacity study and treatment plant mitigations. LAFCo adopted the LOAPUD Municipal Service Review (MSR) and Sphere of Influence Update Plan (SOI) in 2013, which indicates that the District has adequate resources to provide sanitary sewer services to the territory.

l) Availability of adequate water supplies.

The South Feather Water and Power Agency (SFWPA) already provides domestic water service to the territory.

m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs.

Parcel 1 is developed with an existing commercial/industrial use (All Metals, Inc.) and Parcel 2 is partially developed with a single-family home; no further development of the site is proposed. The South Oroville/Las Plumas area is identified for growth (2,500 new dwelling units) in the Butte County General Plan, and is assumed in the Environmental Impact Report (EIR).

n) Any information or comments from the landowner or owners, voters, or residents of the affected territory.

No information or comments were offered aside from the parcel 2 request to be added

o) Any information relating to existing land use designations.

Parcel 1 is zoned GI (General Industrial) and is identified as I (Industrial) in the Butte County General Plan. The parcel is substantially developed with an approximately 67,700 square foot building which has historically been used for the fabrication and distribution of metal and industrial hardware (All Metals Supply Inc.), surrounding parking and

landscaping. Parcel 2, located directly south-adjacent to Parcel 1, is 4.83 acres in size, zoned MU-1 (Mixed Use, 1 acre minimum) and is identified as MU (Mixed Use 4 – 20 units per acre) in the Butte County General Plan. The proposed annexation would support the continued use the commercial/industrial and single-family residential use of the territory consistent with the Butte County General Plan.

While no further development of the parcel is proposed or known at this time, the zoning and General Plan Land Use designation (MU) would allow for a variety of residential and commercial uses under the authority of the Butte Country Development Service Department. The South Oroville/Las Plumas area is identified for growth (2,500 new dwelling units) in the Butte County General Plan, and is assumed in the Environmental Impact Report (EIR).

p) The extent to which the proposal will promote environmental justice.

The proposed annexation is not expected to promote or discourage the fair treatment of minority or economically disadvantaged groups.

q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps.

The proposed annexation will not affect hazards identified in the Butte County Local Hazard Mitigation Plan 2019, the Health and Safety Element of the Butte County General Plan or Safety Element for the City of Oroville General Plan.

Based upon the above responses, the proposal appears to be consistent with the listed factors.

Applicable Butte LAFCo Policies

Section 2.0 (*LAFCo General Policies and Standards*) and Section 4.0 (*Annexation and Detachments*) of Butte LAFCo Policies and Procedures provides the Commission with general standards for annexation proposals. The relevant policies for consideration and guidance for this proposal include:

- The ability of the agency to deliver adequate, reliable and sustainable services (2.7)
- Consistency with General Plan of the applicable planning jurisdiction (2.10.1)
- Consistency of a proposal with the Sphere of Influence and Municipal Service Review of the affected jurisdiction(s) (4.1.1)
- Determination of the most efficient service provider (4.2)

The proposal is substantially consistent with the above policies in that:

- It would facilitate further development of the territory and the continued use of the site for commercial/industrial and single-family residential use allowed by the Butte County General Plan;
- As identified in the LOAPUD section of the Wastewater Service Providers-Oroville Region Municipal Service Review, LOAPUD and SC-OR facilities have the capacity to provide service to the territory; and
- LOAPUD is the most logical, efficient and only sanitary sewer service provider in the area.

State law and Butte LAFCo Policies allow the Commission to add or remove parcels from an annexation proposal to ensure the creation of logical, efficient, and effective jurisdictional boundaries. Additionally, Butte LAFCo Policy 4.1.4 states that LAFCO will modify small, piecemeal annexations, to include additional territory in order to promote orderly annexation and logical boundaries, while maintaining a viable proposal.

ADDITIONAL INFORMATION

Property Tax Agreement

In accordance with provisions of Revenue and Taxation Code Section 99, a Master Property Tax Exchange Agreement exists between the Lake Oroville Area Public Utility District and the County of Butte, which was signed on April 26, 2005. In accordance with the Master Property Tax Exchange Agreement, the proposed change of organization will be revenue neutral to all affected agencies.

Support/Protest

The Lake Oroville Area Public Utility District Board of Directors conducted a public hearing on June 9, 2020, and adopted Resolution No. 05-2020 (see **Exhibit C**), initiating the annexation proposal and received no objections or opposition. On August 21, 2020, staff received a requested from the adjacent property owner(s) (see **Exhibit D**) to include their parcel as part of the annexation proposal. The annexation has the support of the three landowners involved. Pursuant to Government Code §56046, the annexation is considered uninhabited territory as there are less than 12 persons registered to vote within the territory.

As this proposal has 100% consent of the affected landowners, pursuant to Government Code §56663, the Commission may waive the protest proceedings if the following conditions are met: the subject area is uninhabited; all owners have given their consent; and no affected agencies have submitted written opposition to a waiver of protest proceedings. This annexation proposal meets the above conditions for a waiver of the protest proceedings, and therefore, approval by this Commission will be the final action required for annexation.

Conducting Authority Proceedings

The proposed annexation has 100% consent of the property owners and the subject territory is uninhabited. No subject agency has provided written opposition to a waiver of protest proceedings. Accordingly, conducting authority proceedings may be, are recommended to be, waived pursuant to California Government Code §56663(c) if the Commission approves the annexation.

ENVIRONMENTAL ANALYSIS

The Lake Oroville Area Public Utility District is the lead agency for the proposal under the California Environmental Quality Act (CEQA). LOAPUD determined that annexation of the single parcel (Parcel 1) under the original proposal is exempt from further environmental review pursuant to Section 15319(a) (Annexation of Existing Facilities and Lots for Exempt Facilities) of the California Environmental Quality Act (see **Exhibit E**). Staff has reviewed the aforementioned Notice of Exemption and believes that LOAPUD has made an adequate determination in that the proposed annexation will not directly result in any substantial impact to the environment.

As responsible agency, LAFCo is required to rely on LOAPUD's environmental documentation in acting on the proposal, but must prepare and issue its own findings. The annexation of APN 078-

090-032 (Parcel 2) was not considered in the above-referenced Notice of Exemption because it was not a part of LOAPUD's annexation proposal. Staff recommends that the Commission find that the annexation of Parcel 2 is exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) – General Rule Exemption. This exemption is appropriate for projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

The General Rule exemption is appropriate for the annexation of APN 078-090-032 because: 1) the subject parcel is developed with an existing, permitted single-family home and no proposal for further development is known or proposed at this time; 2) any future land development of the site must undergo environmental analysis pursuant to CEQA and meet all Butte County development standards; and 3) the EIR for the Butte County General Plan 2030 (SCH # 2008092062) assumes the residential build-out of 2,500 dwelling units for the South Oroville/Las Plumas Study Areas.

CONCLUSION

The Lake Oroville Area Public Utility District is capable of providing sanitary sewer services to the territory without impacting service levels provided to current District customers. Annexation of this area represents a logical extension of the District's boundaries and services, and it will have no adverse impacts on any other agency's ability to provide services. The annexation proposal substantially conforms to LAFCo policy and the Executive Officer recommends approval of this proposal.

ALTERNATIVES FOR COMMISSION ACTION

After reviewing this report and any testimony or materials that are presented, the Commission can take one of the following actions:

OPTION 1 – APPROVE the *amended* proposal and adopt Resolution 02 2020/21 approving the uninhabited annexation consisting of two parcels totaling 12.65 acres in size and adjacent road right-of-way to the Lake Oroville Public Utility District, and waive the conducting authority proceedings, finding that:

- 1) The subject territory is uninhabited;
- 2) The affected landowners have given written consent to the annexation;
- 3) The annexing agency has given written consent to the waiver of conducting authority proceedings; and
- 4) Affirm the LOAPUDs determination that the proposed annexation is exempt from further environmental review pursuant to Section 15319(a) of the California Environmental Quality Act (Annexation of Existing Facilities and Lots for Exempt Facilities). Additionally, find that the annexation of APN 078-090-032 is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) – General Rule Exemption.

OPTION 2 – APPROVE the *original* proposal and direct staff to amend Resolution 02 2020/21 to include a single parcel totaling 7.82 acres in size and adjacent road right-of-way to the Lake Oroville Public Utilities District and waive the conducting authority proceedings, finding that:

- 1) The subject territory is uninhabited;
- 2) The affected landowner has given written consent to the annexation;
- 3) The annexing agency has given written consent to the waiver of conducting authority proceedings; and

- 4) Affirm the LOAPUDs determination that the proposed annexation is exempt from further environmental review pursuant to Section 15319(a) of the California Environmental Quality Act (Annexation of Existing Facilities and Lots for Exempt Facilities).

OPTION 3 - DENY the proposal.

OPTION 4 - CONTINUE this proposal to a future meeting for additional information.

OPTION 5 – IDENTIFY and ADD additional parcels to the annexation proposal and CONTINUE this proposal to a future meeting to allow for notices to be sent to the owners and registered voters of the parcels to be added.

ACTION REQUESTED:

Approve OPTION 1.

Respectfully submitted,

Shannon Costa

Shannon Costa
Local Government Planning Analyst

Attachments:

- Exhibit A: Annexation Area Map
- Exhibit B: Draft LAFCo Resolution No. 02 2020/21
- Exhibit C: LOAPUD Resolution No. 05-2020
- Exhibit D: Property Owner Request to Add
- Exhibit E: Notice of Exemption

RESOLUTION NO. 02 2020/21

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF BUTTE
MAKING DETERMINATIONS AND ORDERING THE ANNEXATION OF
TERRITORY DESIGNATED AS 20-10
LAKE OROVILLE AREA PUBLIC UTILITY DISTRICT
OPHIR ROAD ANNEXATION NO. 2**

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 July 22, 2020, 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 September 3, 2020, 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 September 3, 2020, 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 affirms the LOAPUDs determination that the proposed annexation is exempt from further environmental review pursuant to Section 15319(a) of the California Environmental Quality Act (Annexation of Existing Facilities and Lots for Exempt Facilities). Additionally, find that the annexation of APN 078-090-032 is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) – General Rule Exemption.

Section 2. General Findings and Determinations:

- A. 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.

- B. The annexation area shall consist of a two parcels identified as Assessor's Parcel Numbers 078-090-053 and 078-090-032, and the adjacent portions of the Ophir Road and Lincoln Boulevard right-of-ways, as described in Exhibit "A."
- C. The subject area is found to be uninhabited, and is assigned the following short form designation: 20-10 – LOAPUD – Ophir Road Annexation No. 2.
- D. The purpose of the annexation to the Lake Oroville Area Public Utility District is to allow for the provision of sanitary sewer service for the continued use of the existing commercial/industrial and single-family residential use at the territory.
- E. The proposal is consistent with the Lake Oroville Area Public Utility District Sphere of Influence.
- F. 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 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.

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 Exhibit A 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 September 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINS:

Clerk of the Commission

CARL LEVERENZ, Chair
Butte Local Agency Formation Commission

DRAFT

Exhibit 1

Exhibit C

Resolution No: 05-2020

**A Resolution of Application of the
Lake Oroville Area Public Utility District
Requesting the Local Agency Formation Commission to
take proceedings for the annexation of Territory of the District
Lands of Lazzareschi Investment Co. Partnership
AP # 078-090-053
(±7.82 acres located at 600 Ophir Rd.)**

Resolved, by the Board of Directors of Lake Oroville Area Public Utility District, that

Whereas, the Lake Oroville Area Public Utility District desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with §56000 of the California Government Code, for the annexation; and

Whereas, notice of intent to adopt this resolution of application has been given to each interested and subject agency; and

Whereas, the territory proposed to be annexed is an existing commercial business property, and a description of the boundaries of the territory is set forth in Exhibit 3 attached hereto and by this reference incorporated herein; and

Whereas, this proposed annexation is consistent with the sphere of influence of the Lake Oroville Area Public Utility District; and

Whereas, the project proposed to be facilitated by this change of organization is consistent with the county of Butte General Plan applicable to this property; and

Whereas, the reason for the proposed annexation is to provide sanitary sewer service and to comply as required by LAFCo Guidelines; and

Whereas, the proposed annexation has 100% landowner consent, the Lake Oroville Area Public Utility District requests that the LAFCo and Conducting Authority public hearings be waived; and

Whereas, the Board of Directors certifies that pursuant to Section 99(b) of the Tax and Revenue Code, the Master Property Tax Exchange Agreement that exists between the Lake Oroville Area Public Utility District and the County of Butte applies to this proposed annexation; and

Whereas, this Board finds that, in accordance with said Master Property Tax Exchange Agreement with Butte County, this change of organization will be revenue neutral to all affected agencies; and

Whereas, the Board of Directors notes that the annexation of this property is exempt from environmental review as the annexation of an individual parcel with existing facilities that would have a capacity to serve only the existing facility; and

Exhibit 1

Whereas, the Board certifies that, pursuant to §56837 (c) of the Government Code: that the subject territory has fewer than twelve (12) residents, that all owners consent in writing to the annexation, and that Lake Oroville Area Public Utility District, being the only affected agency gaining territory as a result of the annexation, hereby waives the final Conducting Authority hearing,

Now, therefore be it resolved, this Resolution of Application is hereby adopted and approved by the Board of Directors of Lake Oroville Area Public Utility District, and the Local Agency Formation Commission of Butte County is hereby requested to take proceedings for the annexation of territory as described in Exhibit 3, according to the terms and conditions stated above and in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Be it further resolved, that in proposing the annexation of the aforesaid property to the LOAPUD, this Board of Directors has determined that pursuant to the California Environmental Quality Act, the proposal will not have a significant effect on the environment.

Be it further resolved, that the Local Agency Formation Commission be requested to make this change of organization subject to the Petition for Proceedings executed by the owners of the subject territory, attached hereto.

Passed and adopted by the Board of Directors of the Lake Oroville Area Public Utility District at its regular meeting on the 9th day of June 2020 by the following vote:

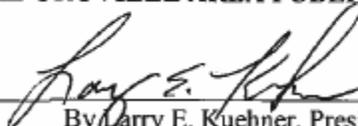
AYES: Directors Fairbanks, Kuehner, Mastelotto, Sharman

NOES:

ABSTENTIONS:

ABSENT:

LAKE OROVILLE AREA PUBLIC UTILITY DISTRICT


By Larry E. Kuehner, President

ATTEST:


Cindy Quiigley, Secretary

Exhibit D

perkinsrealty@gmail.com | Costa, Shannon; scottm@loapud.com; tom@wagonwheelmarket.com | Fri 8/21

LAFCo File No. 20-10-LOAPUD-Ophir Rd Annexation No.2 - comment/request

You replied to this message on 8/24/2020 8:56 AM.

Action Items + Get more apps

ATTENTION: This message originated from outside Butte County. Please exercise judgment before opening attachments, clicking on links, or replying.

Shannon
Thank you for your time yesterday looking into & explaining the process for us (APN 078-090-032, 6046 Lincoln Blvd) applying for annexation & being considered by LAFCO & LOAPUD.
-
Please accept this email as our request to be included in this current annexation process. As mentioned above, our address is Lincoln Blvd. & our parcel # is 078-090-032. We think it is very favorable to all parties including the community as well as the local environment that this area be served by LOAPUD's system; we look forward to being a part of that effort.

As directed, I've cc'd LOAPUD & will send them a separate email requesting they affirm our request.

Thanks again for your time & please don't hesitate to contact me as needed.

Scott Perkins
Better Homes Realty Oroville
(530)864-1520
DRE 01856418
1900 Oro Dam Blvd. Ste 12
Oroville, CA 95966

Tom Butler <tom@wagonwheelmarket.com> | Costa, Shannon; perkinsrealty@gmail.com; scottm@loapud.com | 10:36 AM

Re: LAFCo File No. 20-10-LOAPUD-Ophir Rd Annexation No.2 - comment/request

You forwarded this message on 8/24/2020 2:11 PM.

Action Items + Get more apps

ATTENTION: This message originated from outside Butte County. Please exercise judgment before opening attachments, clicking on links, or replying.

Shannon,
Thank you for keeping this process going, I, along with Scott, would like to move forward in the process of annexing our property to the sewer district. If you need anything more please don't hesitate to let us know.
Thank you,
Thomas Butler

Exhibit 4

Exhibit E

APPENDIX A
NOTICE OF EXEMPTION

TO: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

FROM: L.O.A.P.U.D.
1960 Elgin St.
Oroville, CA 95966

County Clerk
County of Butte
25 County Center Drive
Oroville, CA 95965

Project Title:

Assessor's Parcel No.: 078-090-053

Applicant: Lake Oroville Area Public Utility District

Project Location-Specific: 600 Ophir Rd. Oroville, CA 95966

Project Location-City: Oroville **Project Location-County:** Butte

Description of Nature, Purpose and Beneficiaries of Project: To annex the property to the Lake Oroville Area Public Utility District, for the purpose of providing sanitary sewer service to existing commercial developed property.

Name of Person or Agency Approving Project: Lake Oroville Area Public Utility District

Exempt Status: (Check One)

- Ministerial (Sec. 15073)
- Declared Emergency (Sec. 15071(a))
- Emergency Project (Sec. 15071 (b) and (c))
- Categorical Exemption. State type and section number: 15319 (a)

Reasons why project is exempt: Section 15319 Annexation of Existing Facilities and Lots for Exempt Facilities.
 (A) Annexations to city or special district of areas containing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the gaining or losing governmental agency whichever is more restrictive, provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities.
 (B) Annexations of individual small parcels of the minimum size for facilities exempted by Section 15303, New Construction or Conversion of Small Structures.

Contact Person: Scott McCutcheon, General Manager **Telephone:** (530) 533-2000

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project?
Yes No

Date Received for Filing:

Signature:  Date: 6-17-2020 Title: General Manager

Signed by Lead Agency Signed by Applicant