
**BUTTE LOCAL AGENCY FORMATION COMMISSION (LAFCO)
EXECUTIVE OFFICER'S REPORT**

TO: Local Agency Formation Commission
FROM: Stephen Betts, Deputy Executive Officer
SUBJECT: **LAFCo File 16-01 – City of Chico – Extension of Services – 1437 Glenwood Avenue**
DATE: November 23, 2015, for the meeting of December 3, 2015

Summary

The City of Chico is requesting approval to extend sanitary sewer services to a single unincorporated parcel that is developed with a residential duplex use (**Exhibit A**). An emergency authorization was approved to allow the parcel to connect to the City's sanitary sewer system due to a failed septic system. The parcel is contiguous to City of Chico jurisdictional boundaries and annexation is feasible due to the contiguity. However, annexation of the parcel would result in illogical and ineffective jurisdictional boundaries, as the parcel would be the only parcel on this section of Glenwood Avenue within the jurisdiction of the City of Chico.

Staff recommends that the Commission approve the extension of services request but not require annexation. Draft Resolution 06 2015/16 (**Exhibit B**) contains recommended conditions of approval.

General Information

Application Submitted: October 22, 2015

Application Deemed Complete: November 16, 2015

100% Landowner Consent: Yes

Notice and Hearing Required: No

Proponent: City of Chico

Landowner: Spirit Trust (Ed Manning)

Location: The subject parcel is located on the northwest side of Glenwood Avenue, approximately 250 feet south of Nord Avenue (SR 32), in the unincorporated west Chico area. The subject parcel is identified as Assessor's Parcel Number 042-320-044 (1437 Glenwood Avenue, Units 1 and 2), Chico, CA. The territory is located in Supervisorial District 2.

Proposal: Extension of City of Chico sanitary sewer service to a single parcel.

Requested Action: Adopt Resolution 06 2015/16 (**Exhibit B**) approving the extension of City of Chico sanitary sewer services.



DISCUSSION AND ANALYSIS

Background

The subject parcel, which is approximately 11,760 square foot (0.27 acres) in size, is developed with a 2,100 square foot residential duplex unit built in 1966. Domestic water supply for the dwellings is provided by the California Water Service Company. The parcel fronts on Glenwood Avenue, which is a public road and which is paved and improved with curbs and gutters on both sides of the street, and a sidewalk on the west side of the street. Land uses on the surrounding parcels include residential duplexes and multi-family dwellings.



Project Site – 1437 Glenwood Avenue (Photo – Google Maps)

The parcel is contiguous to the City of Chico jurisdictional boundaries on the parcel's northwest to the rear of the parcel. Annexation of the parcel is feasible given the contiguity. However, no other parcels on this section of Glenwood Avenue are within the City of Chico and annexing the subject parcel would result in illogical and ineffective jurisdictional boundaries and would make it difficult for the City to provide full municipal services to the parcel and possibly create confusion for emergency services dispatch.

Until recently, sewage disposal for the dwelling on the subject parcel was handled by an on-site septic system. An inspection of the septic system discovered that the septic system leach lines had failed and that new leach lines were needed (see **Exhibit C**). However, Butte County Environmental Health Division policies require, in the event of a failed or failing septic system, connection of the parcel to a public sanitary sewer if there is a sewer line within 250 feet of the parcel. On October 10, 2015, the LAFCo Executive Officer authorized an emergency extension of services to allow the City of Chico to connect the parcel to the City's sanitary sewer system (see **Exhibit D**). The authorization specifically and clearly noted that LAFCo may require the City to initiate annexation of the subject parcel if the City connected the parcel to their sewer system.

Land Use/Zoning Designations

The Butte County General Plan designates the subject parcel as Medium High Density Residential (up to 14 dwelling unit per acre) and the parcel is zoned Medium High Density Residential (up to 14 dwelling unit per acre). The City of Chico's General Plan designates the parcel as Low Density Residential (2.1 to 7 units per acre) and the City has prezoned the parcel as R1 (2.1 to 7 units per acre). The multi-family residential use on the subject parcel is consistent with both the County's and the City's General Plans and zoning ordinances.

Governing Law and LAFCo Policy

Provisions for extension of service requests are found in Government Code §56133 and in Section 4.5 of the Commission Policies and Procedures. In brief, the law permits the Commission to authorize a city or district to provide new or extended service outside its jurisdictional boundaries but within its sphere of influence (SOI) *in anticipation of a later change of organization*. These documents offer the following guidance:

- Extensions of service are to be in *anticipation of annexation*, which is generally defined by LAFCo as meaning the area is located within the agency's Sphere of Influence (Butte LAFCo Policy 4.5.4.A.5).
- Annexations to cities and special districts are generally preferred for providing public services (Butte LAFCo Policy 4.5.4.A.1).
- Local circumstances, health and safety, emergency service, or other concerns may warrant the approval of an extension of service where annexation is not practical or deemed undesirable for other policy reasons (Butte LAFCo Policy 4.5.4.A.1).
- Extension of service agreements are usually considered to be a temporary measure, typically considered in response to an existing or impending public health and safety threat (e.g., failing septic system or domestic water well), or when annexation is not immediately feasible, and in anticipation of a future annexation (Butte LAFCo Policy 4.5.4.A.1).
- The Commission gives great weight to properly documented existing health and safety needs when considering justification of such extensions (Butte LAFCo Policy 4.5.4.A.1).
- The Commission discourages use of contract service extensions for the purpose of extending services to new development and will approve such extensions only under extraordinary circumstance and may apply strict limitations on such services (Butte LAFCo Policy 4.5.4.A.1).

Requests for Approval

In accordance with State law, requests and approvals for extensions of service are to be filed and acted upon prior to an agency providing services. All requests *shall explain the specific circumstances that make annexation infeasible* and justify extension of service by contract. The Commission may condition any extension of services where it finds local circumstances warrant applying greater scrutiny and guidance.

Whenever the Commission determines to condition the approval upon a later annexation of the affected property, the condition shall normally include a requirement that the owner record an agreement consenting to annex the territory, which agreement shall bind future owners of the property. A signed, notarized annexation agreement was submitted with the extension of services application.

Pursuant to Butte LAFCo Policy 4.5.4.D, the Executive Officer is required to evaluate the following five factors when reviewing an extension of services request. The factors are intended

to provide the Commission with information about certain topics that are often relevant to extension of services request. No single factor is determinative. An evaluation of these factors as it relates to the proposed extension of service request follows.

- 1) The ability of the local agency to provide service to the proposal area without detracting from current service levels.

The City of Chico owns and maintains a wastewater collection, treatment, and disposal system. As indicated in the City's Municipal Service Review (adopted by the Commission in 2006), and the City's General Plan (adopted by the City in 2011), the City of Chico's wastewater system has sufficient capacity to provide service to the affected parcel without detriment to current service recipients. A City of Chico sanitary sewer line is located within the Glenwood Avenue right-of-way.

The City does not, and will not, provide any other parcel specific service, such as fire protection and law enforcement services, to the subject parcel. The existing public services provided to the subject parcel by Butte County will not change as a result of this proposal until such time as the parcel is annexed to the City of Chico.

- 2) The proposal's consistency with the policies and general plans of all affected local agencies.

The affected parcel is developed with a residential duplex use. This use is consistent with the City of Chico's General Plan land use designation of Low Density Residential and with the City's R1 rezoning of the parcel. The existing use is also consistent with the County's General Plan land use designation of Medium High Density Residential and the County's zoning of Medium High Density Residential.

- 3) The proposal's effect on growth and development within and adjacent to the affected land.

The proposal to connect to the City of Chico's sanitary sewer system will facilitate the continued use of the parcel for residential purposes. The extension of services will be conditioned to state that the extension of sewer services is for existing development only. Any additional development on the parcel, such as another dwelling unit, will not be allowed unless the parcel is first annexed to the City of Chico.

- 4) Whether the proposal contributes to the premature conversion of agricultural land or other open space land.

No agricultural uses are found on the subject parcel or in the area. The proposed extension of sanitary sewer service to the subject parcel will not affect agricultural lands.

- 5) The likelihood of a later change of organization being initiated by the affected agency.

*The subject parcel is contiguous to City of Chico jurisdictional boundaries on one side, to the rear of the subject parcel. Annexation of the subject parcel to the City would result in illogical, inefficient, and ineffective jurisdictional boundaries since annexation would result in the subject parcel being the only parcel within the City of Chico on this portion of Glenwood Avenue. The emergency sewer connection authorization (**Exhibit D**) that allowed the parcel to connect to the City's sewer system noted that a condition of this extension of services request may require that the City of Chico initiate an annexation of the subject parcel. However, LAFCo Staff is not recommending that the parcel be annexed as a condition of this extension of service request.*

A Butte LAFCo Annexation Consent Agreement and Covenant was submitted with the extension of services application, which binds the current and future owners of the parcel to the future annexation of the parcel. The annexation consent agreement and covenant has been recorded with the Butte County Recorder's Office and all prospective buyers of the parcel will be aware of annexation requirement.

Environmental Analysis

The proposed extension of service is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) – General Rule Exemption. This section can be used when the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. 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 this proposal because: 1) the subject parcel is developed with a residential use; 2) the residential use is consistent with the City's General Plan and rezoning and with the County's General Plan and Zoning Ordinance; and 3) the City has already extended sewer infrastructure to the area.

Staff Recommendation

This proposal meets all of the five criteria established to review service extensions in that:

- 1) The City has documented its ability to provide service;
- 2) The proposal is consistent with current land use plans for the City;
- 3) The proposal will have an insignificant effect on growth and development;
- 4) The proposal will not cause impacts to agricultural land.

The fifth criterion is difficult to assess in that the City has clearly indicated no desire to initiate annexation of the subject parcel. However, an annexation consent agreement and covenant for the subject parcel was submitted with the extension of services application.

This extension of services authorization is intended only for development on the effected parcel that existed at the time of application to LAFCo, which for this project is a residential duplex use. Staff recommends that the Commission approve the extension of City of Chico sanitary sewer services to the subject parcel, but with the following condition that prohibits new development that requires additional sewer service:

The authorization to extend City of Chico sewer services to the subject parcel (APN 042-320-044 - 1437 Glenwood Avenue, Units 1 and 2) is explicitly restricted to the current, existing use on the parcel as of the date of the LAFCo authorization, which is a 2-unit, 2,100 square foot residential duplex. Prior to the City of Chico or County of Butte authorizing or otherwise allowing any new or additional development on the parcel that alters the existing use, the City or County shall provide such proposals to the LAFCo Executive Officer for review of compliance with this sewer extension authorization.

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 proposal as submitted:

- A. Find that the extension of services request is not subject to the provisions of the California Environmental Quality Act per Section 15061(b)(3), General Rule Exemption.
- B. Adopt Resolution No. 06 2015/16 authorizing the City of Chico to provide sanitary sewer service outside the City's boundary to the property located at 1437 Glenwood Avenue, Units 1 and 2 (APN 042-320-044) in the unincorporated Chico area.

OPTION 2 - DENY the proposal.

OPTION 3 - CONTINUE this proposal to a future meeting for additional information.

ACTION REQUESTED: Approve OPTION 1.

Respectfully submitted,

Stephen Betts

Stephen Betts
Deputy Executive Officer

Attachments:

Exhibit A: Area Map – pg. 2

Exhibit B: Draft LAFCo Resolution No. 06 2015/16 – pg. 8

Exhibit C: Septic System Inspection Report – pg. 11

Exhibit D: Signed Emergency Extension of Services Authorization – pg. 12

DRAFT

Exhibit B

RESOLUTION NO. 06 2015/16

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF BUTTE
AUTHORIZING THE CITY OF CHICO TO
PROVIDE OUT-OF-AGENCY SANITARY SEWER SERVICES
TO 1437 GLENWOOD AVENUE (APN 042-320-044), CHICO, CA**

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

WHEREAS, a proposal for the extension of public sanitary sewer services by the City of Chico to 1437 Glenwood Avenue, Units 1 and 2 (APN 042-320-044), Chico, CA, located outside of the Chico city limits but within the City of Chico's Sphere of Influence, in the County of Butte, was heretofore filed by the City of Chico and accepted for filing on November 16, 2015, 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 subject parcel is contiguous to the City of Chico's jurisdictional boundaries on one side. However, annexation of the subject parcel to the City of Chico would result in illogical, inefficient, and ineffective jurisdictional boundaries because the annexation would result in the subject parcel being the only parcel on this portion of Glenwood Avenue being within the City of Chico; and

WHEREAS, due to failing leach lines and to prevent potential health and safety issues, the subject parcel was allowed to connect to the City of Chico's sanitary sewer system under an emergency authorization granted by the LAFCo Executive Officer on October 10, 2015; and

WHEREAS, the signed emergency authorization for the subject parcel contained a note that stated LAFCo may place a condition on the extension of services application that requires the City of Chico to initiate annexation of the subject parcel; and

WHEREAS, a City of Chico sanitary sewer line is installed within the Glenwood Avenue right-of-way and the City of Chico's sanitary sewer system and wastewater treatment plant have adequate capacity to serve the subject parcel; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658, set December 3, 2015, as the hearing date on this proposal; 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 December 3, 2015, 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

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

Section 1. Environmental Action:

- A. The Commission finds that the extension of services request is not subject to the provisions of the California Environmental Quality Act per Section 15061(b)(3) (General Rule Exemption).

Section 2. Determinations:

- A. The Commission has considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, Sphere of Influence and City of Chico General Plan and zoning consistency, the City of Chico Municipal Service Review, and other factors specified in Government Code Section 56133, and as described in the staff report dated November 23, 2015, for the meeting of December 3, 2015.
- B. The Commission authorizes the City of Chico to extend sanitary sewer service outside the City's boundary to the property located at 1437 Glenwood Avenue, Units 1 and 2 (APN 042-320-044), in the unincorporated Chico area.
- C. The proposal is assigned the following short form designation: 16-01 - City of Chico – Extension of Services – 1437 Glenwood Avenue.
- D. The purpose of the extension of services is to allow the City of Chico to provide public sanitary sewer service to the subject parcel.
- E. The City of Chico's sanitary sewer system has adequate capacity to serve the two dwellings on the subject parcel and a City of Chico sanitary sewer line is located within the Glenwood Avenue right-of-way.
- F. The territory is located within the City of Chico's Sphere of Influence and is not within the Sphere of Influence or the district of any other sanitary sewer service provider.
- G. This extension of sanitary sewer services is to support development on the subject parcel that existed at the time of application to LAFCo.

Section 3. Conditions requested by LAFCo:

- A. All LAFCo fees must be paid in full prior to the extension of service authorization becoming effective.
- B. The authorization to extend City of Chico sewer services to the subject parcel (APN 042-320-044 - 1437 Glenwood Avenue, Units 1 and 2) is explicitly restricted to the current, existing use on the parcel as of the date of the LAFCo authorization, which is a 2-unit, 2,100 square foot residential duplex. Prior to the City of Chico or County of Butte authorizing or otherwise allowing any new or additional development on the parcel that alters the existing use, the City or County shall provide such proposals to the LAFCo Executive Officer for review of compliance with this sewer extension authorization.

PASSED AND ADOPTED by this Local Agency Formation Commission of the County of Butte, on the 3rd day of December 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINS:

ATTEST:

Clerk of the Commission

CARL LEVERENZ, Chair
Butte Local Agency Formation Commission

Exhibit C

Payless



Septic Service

P.O. Box 8814
Chico, CA 95927
(530) 892-2030



Invoice No. 02658
Job 1437 Glenwood Ave
Chico
Date 06-27-15
Serviceman SA

Name Ed Morrison
Street _____
City _____
Ordered By _____ Phone 321-2866
Service Performed Vacuum Clean tank gal. pumped 1500

Service Charge _____
Inspection Fee _____
Vacuum Truck 485
Materials 15
CREDIT CARD
C _____
CK _____
CHG Please Pay 470
Customer Signature Ed Morrison

Remarks: Failing Leach Lines
paid cash

TERMS: NET 10 DAYS, a FINANCE CHARGE will be computed on the unpaid balance at the rate of 1 1/2% per month.

Exhibit D

LAFCO
OCT 09 2015
OROVILLE, CA



BUTTE LOCAL AGENCY FORMATION COMMISSION

1453 Downer Street, Suite C • Oroville, California 95965-4950
(530)538-7784 • Fax (530)538-2847 • www.buttelafco.org

Emergency Extension of Services Application

Purpose: This Emergency Extension of Services Application is intended to be used by a local agency to request an immediate authorization from Butte LAFCO for urgent service extensions subject to ALL of the following criteria:

1. The lack of service being requested constitutes an immediate health and safety concern; and
2. The property is currently developed; and
3. There are physical restrictions on the property that prohibit a conventional service delivery method typically suited to the unincorporated area (i.e., septic tank, private well, etc.)

Process: The local agency shall complete the Emergency Extension of Services Application and submit it to the Executive Officer (via mail, fax or email) who will immediately evaluate the request and is authorized to approve the immediate extension of services subject to submission by the affected agency within 30 days of emergency approval, a complete Extension of Services Application with appropriate fees for Commission consideration.

Please provide the following information:

Applicant (local agency) ED MANNION - SPIRIT TRUST

Assessor's Parcel Number(s): 042-320-044

Street Address: 1437 GLENWOOD AVE

Landowner Name: SPIRIT TRUST - ED MANNION

Requested Service(s): Sewer

Reason for Emergency Extension of Service(s): FAILED LEACH LINES

(Note: Please attach documentation from the local agency, a licensed contractor or the Butte County Environmental Health Division if for a septic system or well failure.)

As the local agency providing emergency services to the affected parcel, I certify that the reason for the emergency condition is accurate and the agency understands the responsibility to submit a formal application and all appropriate fees as noted above.

Authorized Local Agency Contact: Name: RICK RODRIGUEZ
Title: ENG. TECH. II
Signature: [Handwritten Signature]

Approved by LAFCO Executive Officer (or designee) on OCT 10, 2015*

[Handwritten Signature]
Executive Officer Signature

* SEE NOTE ON BACK SIDE OF THIS FORM

Emergency Service Extension Authorization Caution Notice

October 12, 2015
1437 Glenwood Avenue (Mannion)
APN 042-320-044

This parcel is contiguous to City boundaries and therefore it is feasible to annex to the City in order to obtain sewer services.

Staff will recommend to the Commission that the sewer service extension authorization be conditioned to require the City to initiate annexation of the parcel. Such a condition was placed on previous service extension applications by the Commission.

If annexation cannot be supported by the City, the City may wish to reconsider whether or not to provide sewer services under this Emergency Authorization and wait for the Commission to consider the request without the decision burdened by an existing sewer connection that would be difficult to undo.

Alternatively, the City may wish to advise the property owner to immediately seek annexation if circumstances allow.