

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

RESOLUTION NUMBER L-2009-07

Approving the Summer Brook Annexation to the El Dorado Irrigation District
LAFCO Project No. 2008-03

WHEREAS, on November 6, 2008, Amar Ghori and Imran Aziz submitted a landowner petition (“petition”) requesting the annexation of Assessor’s Parcel Numbers (APNs) 102-210-12 and 102-220-13 shown in ‘Exhibit A’ (hereinafter referred to as the “subject territory”) into the El Dorado Irrigation District (EID); and

WHEREAS, Amar Ghori and Imran Aziz, as 50% of the landowners who own 50% of the assessed value of the subject territory, initiated the petition in conformance with Government Code §56864; and

WHEREAS, on December 18, 2008, Mariam Ghori and Ambreen Yamin-Aziz, as the other 50% of the landowners who own the remaining 50% of the assessed value of the subject territory, submitted written consent for the inclusion of the parcels into the annexation application; and

WHEREAS, the petition is in conformance with Government Code §56650 et seq.; and

WHEREAS, the proposal was assigned LAFCO Project No. 2008-03 and is referred to as the “Summer Brook Annexation to the El Dorado Irrigation District”; and

WHEREAS, the two parcels comprising the subject territory consist of a total of approximately 90 acres; and

WHEREAS, the petition requests the annexation of the subject territory into EID; and

WHEREAS, Revenue and Taxation Code §99 requires an agreement for the exchange of property tax revenues in the event of a jurisdictional change of local agencies; and

WHEREAS, property tax exchange negotiations were completed and approved by the County of El Dorado (“the County”) on February 3, 2009, and by EID on January 27, 2009; and

WHEREAS, EID requested termination of the informational hearing proceedings pursuant to Government Code §56857(b); and

WHEREAS, pursuant to Government Code §56857(c) the Commission terminated the informational hearing proceedings; and

WHEREAS, a Mitigated Negative Declaration of Environmental Impact (MND) has been prepared for the project by El Dorado County as outlined by the California Environmental Quality Act ("CEQA"); and

WHEREAS, the El Dorado Local Agency Formation Commission ("LAFCO") has reviewed said MND, a copy of which is filed at the LAFCO office; and

WHEREAS, a supplemental Addendum to the Mitigated Negative Declaration of Environmental Impact (Addendum) has been prepared for the project by LAFCO to provide additional analysis of the environmental impact to utilities and recreation, as outlined by CEQA; and

WHEREAS, within the scope of the MND and Addendum, any potential environmental impacts of the project were considered and addressed; and

WHEREAS, the Executive Officer has examined the petition, certified that it is adequate and has accepted the petition for filing on August 26, 2009; and

WHEREAS, the Executive Officer set a public hearing for September 23, 2009 for consideration of the petition, MND and Addendum and caused Notice thereof to be posted, published and mailed at the times and in the manner required by law at least twenty-one (21) days in advance of that date; and

WHEREAS, said Notice stated that the petition, MND and Addendum would be considered by this Commission at the hearing; and

WHEREAS, the Executive Officer, pursuant to Government Code §56665, has reviewed this petition and prepared and distributed a report, including recommendations, and has furnished a copy of this report to each person entitled to a copy at least five (5) days prior to the September 23, 2009 meeting during which the petition was considered; and

WHEREAS, on September 23, 2009, the matter came on regularly for hearing before this Commission, at the time and place specified in the Notice of the Public Hearing; and

WHEREAS, at said hearing, the petition, MND, Addendum and the Executive Officer's Report and Recommendations were reviewed and considered; and

WHEREAS, an opportunity was given to all interested persons, organizations, and agencies to present oral or written protests, objections, and any other information concerning the proposal and all related matters; and

WHEREAS, this Commission has received, heard, discussed and considered all oral and written testimony related to the petition, including, but not limited to, protests and objections, the Executive Officer's report and recommendations, the MND, Addendum and determinations, plans for providing service, spheres of influence, applicable General and Specific Plans, each of the policies, priorities and functions set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including those set forth in Government Code §§56377, 56668 and 56668.3, LAFCO's Policies and Guidelines and all other materials presented as prescribed by law; and

WHEREAS, a motion to approve the annexation failed on a vote of 3 ayes and 3 noes; and

WHEREAS, in accordance with Government Code §56895, the applicant submitted a written request for reconsideration of the project on October 22, 2009; and

WHEREAS, in accordance with Government Code §56895, the Executive Officer set a public hearing for December 2, 2009 for the reconsideration of the petition, MND and Addendum and caused Notice thereof to be posted, published and mailed at the times and in the manner required by law at least twenty-one (21) days in advance of that date; and

WHEREAS, said Notice stated that the petition, MND and Addendum would be reconsidered by this Commission at the hearing; and

WHEREAS, the Executive Officer, pursuant to Government Code §56665, has reviewed this request and prepared and distributed a staff memo, and has furnished a copy of this report to each person entitled to a copy at least five (5) days prior to the December 2, 2009 meeting during which the petition was reconsidered; and

WHEREAS, on December 2, 2009, the matter came on regularly for hearing before this Commission, at the time and place specified in the Notice of the Public Hearing; and

WHEREAS, at said hearing, the petition, MND, Addendum and the Executive Officer's Report and Recommendations were reviewed and reconsidered; and

WHEREAS, an opportunity was given to all interested persons, organizations, and agencies to present oral or written protests, objections, and any other information concerning the proposal and all related matters; and

WHEREAS, this Commission has received, heard, discussed and reconsidered all oral and written testimony related to the petition, including, but not limited to, the request for reconsideration, protests and objections, the Executive Officer's report and recommendations, the MND, Addendum and determinations, plans for providing service, spheres of influence, applicable General and Specific Plans, each of the policies, priorities and functions set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including those set forth in Government Code §§56377, 56668 and 56668.3, LAFCO's Policies and Guidelines and all other materials presented as prescribed by law.

NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED, ORDERED AND FOUND by the El Dorado Local Agency Formation Commission as follows:

1. Each of the foregoing recitals is true and correct.
2. This resolution making determinations is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, California Government Code §56000 et seq.
3. The following agencies and districts were notified concerning this petition: El Dorado Irrigation District; El Dorado County representing CSAs 7, 9, 9 Zone 17, 10 and 10 Zone D; El Dorado County Water Agency; El Dorado County Resource Conservation District; El Dorado County Department of Agriculture; El Dorado County Office of Education; Rescue Union School District; El Dorado Union High School District; Los Rios Community College District; El Dorado County Planning Department; El Dorado County Surveyor's Office; the Farm Bureau; and the El Dorado County Elections Department.
4. There are no registered voters in the subject territory; therefore the subject territory is considered uninhabited per Government Code §56046.
5. Amar and Mariam Ghorl, Imran Aziz and Ambreen Yamin-Aziz, as owners of 100% of the assessed value of the land within the subject territory, have given their written consent to the annexation.
6. EID, as the subject agency, has not requested in writing or otherwise that LAFCO hold protest proceedings on this petition.
7. The Conducting Authority proceedings are hereby waived in accordance with Government Code §56663(c).
8. The subject territory is within the EID sphere of influence and is contiguous to the existing boundary.

9. On March 11, 2008 the Board of Supervisors approved a request to amend the General Plan to change the land use designation of the subject property from Rural Residential (RR) to Low Density Residential (LDR), and to rezone the subject territory from Exclusive Agricultural (AE) and Estate Residential Five-Acre (RE-5) to Estate Residential Five-Acre/Planned Development (RE-5/PD).
10. The subject territory is currently undeveloped land that is used for grazing cattle and horses.
11. The subject property is proposed for the development of Summer Brook, a 29-lot residential subdivision.
12. The petition is consistent with the County's 2004 General Plan.
13. The subject territory consists of one tax rate area and is currently within TRA 100-174.
14. The total assessed land value of the subject territory is \$819,085.
15. The petition will assist the County's ability to meet its Regional Housing Needs Assessment allocations as determined by the Sacramento Area Council of Governments for moderate income groups or higher.
16. Upon completion of the approval proceedings, EID shall provide water service to the subject territory.
17. EID has planned for the provision of water service to the subject territory and has developed a fee schedule, bonding funds, and assessments to provide funding for that service.
18. The petition meets the intent, policies, and priorities of this Commission, and the laws and policies within its jurisdiction and authority, including but not limited to the EID sphere of influence and the El Dorado LAFCO Policies and Guidelines.
19. This Commission has reviewed and considered the information contained in the MND, Addendum, Initial Study and administrative record for the petition.
20. The MND and Addendum addressed, among other things, impacts to agricultural resources, hydrology and water quality, land use and planning, population and housing, public services, transportation and traffic, utilities and service systems, and recreation.
21. The MND included a Mitigation Monitoring Program that addressed measures necessary to mitigate the potentially significant effects that the project could

have on the surrounding area, and identified the responsible parties and included the provisions to be followed.

22. This Commission finds that the MND, Addendum and Initial Study contain a complete, accurate and objective reporting of the environmental impacts associated with the annexation and reflect the independent judgment of the Commission.
23. This Commission further finds that the MND, Addendum and Initial Study have been completed in compliance with CEQA, the State CEQA Guidelines and the Commission's Local CEQA Guidelines as detailed in the El Dorado LAFCO Policies and Guidelines.
24. A full and fair public hearing was held on the MND and Addendum for the annexation.
25. This Commission has considered all comments received thereon in response to the public circulation of the MND and Addendum and any and all testimony, including those received leading up to and at the time of the public hearing.
26. This Commission hereby finds on the basis of its review of the Initial Study and comments on the MND and Addendum, and all other written and oral evidence presented to the Commission, there is no substantial evidence in the administrative record to support a fair argument that the proposed change of organization may result in a significant impact on the environment. This Commission further finds that the annexation will not cause any significant environmental impacts.
27. El Dorado County's MND and LAFCO's Addendum for the project are hereby accepted as the appropriate environmental documents for this petition in accordance with CEQA.
28. The County Surveyor has agreed that the submitted legal description and maps are mathematically correct.
29. The annexation will not result in negative impacts to the cost and adequacy of services otherwise provided in the area and it is in the best interests of the affected area and the total organization of local government agencies.
30. The area proposed for reorganization represents an orderly, logical and a justifiable extension of the EID boundaries.
31. The proposal is assigned the following short form designation:

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32. The Summer Brook Annexation to the El Dorado Irrigation District, annexing the subject territory to EID, is hereby approved, subject to the following conditions:
- (a) The subject territory shall be liable for any authorized or existing taxes, fees, service charges, assessments and any bonded indebtedness of EID.
 - (b) The applicant and the real party of interest, if different, shall agree to defend, indemnify, hold harmless and release the El Dorado Local Agency Formation Commission, its agents, officers, attorney and employees from any claim, action or proceeding brought against them or any of them, the purpose of which to attack, set aside, void, condition, challenge or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of, related to or in connection with the approval of this application, whether or not there is concurrent passive negligence of the part of the El Dorado Local Agency Formation Commission or its agents, officers, attorney or employees.
 - (c) The Certificate of Completion shall be issued and recorded subsequent to final payment of all LAFCO, State Board of Equalization and County fees, costs and charges associated with the project and necessary to complete the required filings and transmittals.
 - (d) Proponents shall complete all map and legal description requirements for final recording and filing, including documents required by the State Board of Equalization, within 180 days of September 23, 2009.
 - (e) The Certificate of Completion shall be issued and recorded subsequent to the fixing and establishment of any necessary right of use of water by El Dorado Irrigation District in the subject territory (§56886j). Nothing in this condition shall operate or be interpreted to modify priorities of use, or right of use, to water, or capacity rights in any public improvements or facilities that have been fixed and established by a court or an order of the State Water Resources Control Board.
33. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries and conditions set forth in the attachments and any terms and conditions specified in this resolution.

34. The Executive Officer is hereby authorized and directed to file with the Clerk of the County of El Dorado a Notice of Determination for the annexation, pursuant to Title 14 California Code of Regulations §15075.
35. The effective date shall be the five (5) working days after recordation by the County Recorder of the Executive Officer's Certificate of Completion, which shall be prepared and recorded after the conditions set forth above are met.
36. Upon and after the effective date of said reorganization, the affected territory, all inhabitants within such territory, and all persons entitled to vote by reasons of residing or owning land within the territory:
 - (a) Shall be subject to the jurisdiction of EID, hereafter referred to as "the District";
 - (b) Shall have the same rights and duties as if the affected territory has been a part of the District upon its original formation;
 - (c) Shall be liable for the payment of any authorized or existing taxes, fees, assessments and any bonded indebtedness of the District, including amounts which shall become due on account of any outstanding or then authorized but thereafter issued obligations of the District;
 - (d) Shall be subject to the collection of all taxes, assessments, service charges, rentals or rates as may be necessary to provide for such services;
 - (e) Shall be subject to all of the rules, regulations and ordinances of the District as now existing or hereafter amended.
37. All interested parties, including without limitation Amar and Mariam Ghori, Imran Aziz and Ambreen Yamin-Aziz, agree that LAFCO retains in perpetuity the authority to enforce, through legal action or otherwise, all of the terms and conditions of the project approval.
38. The documents and materials which constitute the record of proceedings on which these findings are based are located at 550 Main Street, Suite E, Placerville, CA 95667. The custodian of these records is the Executive Officer.

PASSED AND ADOPTED by the El Dorado Local Agency Formation Commission at a regular meeting of said Commission, held December 2, 2009 by the following vote of said Commission.

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Interim Clerk to the Commission

Chairperson

DRAFT