

APPROVED
EL DORADO LAFCO
LOCAL AGENCY FORMATION COMMISSION

RESOLUTION NUMBER L-2010-06

Clarksville Professional Business Park Annexation to the El Dorado
Irrigation District; LAFCO Project No. 2009-01

*Approved as recommended to include Assessor's Parcel Numbers
121-280-03 and 121-280-05*

WHEREAS, on February 19, 2009, Clarksville Professional Business Park, LLC, submitted a landowner petition ("petition") requesting the annexation of Assessor's Parcel Numbers (APNs) 121-280-03 and 121-280-05 shown in 'Exhibit A' (hereinafter referred to as the "subject territory") into the El Dorado Irrigation District (EID); and

WHEREAS, Clarksville Professional Business Park, LLC, as 50% of the landowners in the subject territory who own 99.82% of the assessed value of the subject territory, initiated the petition in conformance with Government Code §56864; and

WHEREAS, Clarksville Professional Business Park, LLC is the owner of APN 121-280-03 (hereinafter referred to as the "business park"); and

WHEREAS, the owners of the Clarksville Cemetery, as the other 50% of the landowners in the subject territory who own the remaining 0.18% of the assessed value of the subject territory, have not submitted written consent for the inclusion of the parcels into the annexation application; and

WHEREAS, five individuals or trusts comprise full ownership of the Clarksville Cemetery, APN 121-280-05 (hereinafter referred to as the "cemetery"); and

WHEREAS, the cemetery parcel is owned by the following parties: Newcomb Revocable Trust, McKinley Trust, Judith Woolverton Kielhofer, Renwick Revocable Trust, and Judith Woolverton (collectively referred to hereafter as the "Cemetery Trustees"); and

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

WHEREAS, the proposal was assigned LAFCO Project No. 2009-01 and is referred to as the "Clarksville Annexation to the El Dorado Irrigation District"; and

WHEREAS, the two parcels comprising the subject territory consist of a total of approximately 11.36 acres; and

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WHEREAS, the petition requests the annexation of the subject territory, into EID for the provision of water and wastewater service; and

WHEREAS, of the two subject parcels, only the business park is currently requesting services from 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 May 5, 2009 and by EID on May 4, 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 business park portion of project by the County of El Dorado 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, the Executive Officer reviewed the cemetery portion of the project for conformance under CEQA and determined that this portion was consistent with the determinations under CEQA Guidelines §15183(a), which state that, “projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site,” because the Executive Officer found that no project-specific effects requiring additional review were present; and

WHEREAS, within the scope of the MND and the exemption from CEQA under State Code §15183(a), 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 November 9, 2009; and

WHEREAS, the Executive Officer set a public hearing for January 27, 2010 for consideration of the petition, MND and exemption under CEQA Guidelines §15183(a)

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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, for proposals that do not have the written consent of all landowners, Government Code §56157 requires that LAFCO provide mailed notice of the proposed change of organization to all registered voters and landowners within 300 feet of the subject territory at least 21 days prior to the hearing; and

WHEREAS, the public notice to the neighboring landowners was not mailed within the 21-day time period as required; and

WHEREAS, due to insufficient noticing, the Commission continued the public hearing until the February 24, 2010 meeting; and

WHEREAS, the Executive Officer set the continued public hearing for February 24, 2010 for consideration of the petition, MND and exemption under CEQA Guidelines §15183(a) 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, at the request of the Applicant and EID, the Commission continued the public hearing until the March 24, 2010 meeting; and

WHEREAS, the Executive Officer set the continued public hearing for March 24, 2010 for consideration of the petition, MND and exemption under CEQA Guidelines §15183(a) 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, notice of the proposed change of organization was mailed to all registered voters and landowners within 300 feet of the subject territory at least 21 days prior to the hearing in accordance with Government Code §56157; and

WHEREAS, said Notice stated that the petition, MND and CEQA Guidelines §15183(a) 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 March 24, 2010 meeting during which the petition was considered; and

WHEREAS, on March 24, 2010, the matter came on regularly for hearing before this Commission, at the time and place specified in the Notice of the Public Hearing; and

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WHEREAS, at said hearing, the petition, MND, CEQA Guidelines §15183(a) 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, CEQA Guidelines §15183(a) 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 CSA 7, 9, 10 and 10 Zone E; El Dorado Hills County Water District, El Dorado Hills Community Services District; El Dorado County Water Agency; El Dorado County Resource Conservation District; El Dorado County Department of Agriculture; El Dorado County Office of Education; Buckey 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; El Dorado County Elections Department; El Dorado County Sheriff's Department; the Farm Bureau and the U.S. Bureau of Reclamation.
4. There is one registered voter in the subject territory; therefore the subject territory is considered uninhabited per Government Code §56046.
5. The Clarksville Professional Business Park, LLC, as owner of the business park property, which comprises 99.82% of the assessed value of the land within the subject territory, has given written consent to the annexation.

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6. Ownership of the Clarksville Cemetery is shared by five individuals or trusts, also known as the "Cemetery Trustees."
7. The Cemetery Trustees, as owners of 0.18% of the assessed value of the land within the subject territory, has not given written consent to the annexation.
8. Annexation of the Clarksville Cemetery was recommended by LAFCO staff in order to create a more orderly district boundary and to prevent the formation of a service island.
9. Written Notice of Commission proceedings was given to all registered voters and landowners within 300 feet of the affected territory and no written opposition from registered voters or landowners within the affected territory was received prior to the conclusion of the Commission meeting.
10. Pursuant to Government Code §57000 et seq. the Conducting Authority proceedings are necessary in conjunction with this application.
11. The subject territory is within the EID sphere of influence and is contiguous to the existing boundary.
12. The business park property is designated Commercial by the 2004 County General Plan and on October 28, 2008 the Board of Supervisors approved a request to rezone the parcel from One-Acre Residential (R1A) to Commercial-Planned Development (C-PD).
13. The business park property is currently developed land with a single-family residence that is no longer in use.
14. The business park property is proposed to be subdivided into ten parcels ranging in size from 0.37 to 2.26 acres for the development of ten commercial buildings providing a total of 98,992 square feet for office and medical use.
15. The Clarksville Cemetery property is designated Commercial and is zoned One-Acre Residential (R1A) by the 2004 County General Plan.
16. The cemetery property is currently developed with an active, historic cemetery.
17. The future land use of the cemetery property will not change upon annexation; it is expected to be utilized solely for cemetery purposes and is not proposed for development of any kind.
18. The petition is consistent with the County's 2004 General Plan.
19. The subject territory consists of a single tax rate area and is currently within TRA 054-071.

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20. The total assessed land value of the subject territory is \$2,654,906.
21. The petition will not assist the County's ability to meet its Regional Housing Needs Assessment allocations as determined by the Sacramento Area Council of Governments for any income groups.
22. Upon completion of the approval proceedings, EID shall provide water and wastewater to the business park property.
23. EID has planned for the provision of water and wastewater to the business park property and has developed a fee schedule, bonding funds, and assessments to provide funding for that service.
24. 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.
25. This Commission has reviewed and considered the information contained in the MND, Initial Study and administrative record for the petition.
26. This Commission finds that the MND and Initial Study contain a complete, accurate and objective reporting of the environmental impacts associated with annexation of the business park and reflect the independent judgment of the Commission.
27. This Commission further finds that the MND 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.
28. A full and fair public hearing was held on the MND for the annexation.
29. This Commission has considered all comments received thereon in response to the public circulation of the MND, and said MND is hereby approved and adopted as the MND for the petition.
30. The MND 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.
31. 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.

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32. This Commission hereby finds on the basis of its review of the Initial Study and comments on the MND, 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.
33. El Dorado County, in accordance with the California Environmental Quality Act (CEQA) ultimately determined that, with the mitigation measures specified in the MND, the annexation would not have a significant impact on the environment.
34. El Dorado County's MND for the Clarksville Professional Business Park is hereby accepted as the appropriate environmental document for the business park portion of this petition in accordance with CEQA.
35. CEQA Guidelines Section 15183(a) provides that "projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site."
36. The cemetery portion of this petition is hereby found to be exempt from CEQA pursuant to CEQA Guidelines Section 15183(a).
37. The County Surveyor has agreed that the submitted legal description and maps are mathematically correct.
38. 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.
39. The area proposed for reorganization represents an orderly, logical and a justifiable extension of the EID boundaries.
40. The proposal is assigned the following short form designation:

Clarksville Annexation to the El Dorado Irrigation District
LAFCO Project No. 2009-01
41. The Clarksville Annexation to the El Dorado Irrigation District 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.

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- (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) 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 March 24, 2010.
42. 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.
43. The Executive Officer is hereby authorized and directed to file with the Clerk of the County of El Dorado, a Notice of Determination and a Notice of Exemption for the annexation, pursuant to Title 14 California Code of Regulations §15075 and §15062, respectively.
44. The Executive Officer is hereby instructed to set the Conducting Authority proceeding for this Proposal for April 28, 2010.
45. All interested parties, including without limitation Clarksville Professional Business Park LLC, 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.
46. 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.

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PASSED AND ADOPTED by the El Dorado Local Agency Formation Commission at a regular meeting of said Commission, held March 24, 2010 by the following vote of said Commission.

AYES: Birdwell, Briggs, Hagen, Loftis, Norris,
Sweeney, Humphreys
NOES: None
ABSTAIN: None
ABSENT: None

ATTEST:

Interim Clerk to the Commission

Chairperson