



AGENDA ITEM 8B

MEETING: March 17, 2021
TO: Humboldt LAFCo Commissioners
FROM: Colette Metz Santsche, Executive Officer
SUBJECT: **Reconsideration Request for Modified Creekside Annexation to the City of Arcata**

The Commission will consider a reconsideration request submitted by landowners within the modified Creekside annexation boundary which requests that only the Creekside Homes development parcel be annexed to the City of Arcata with all other parcels remaining in the county. Per Government Code (GC) §56895 reconsiderations may be filed requesting that the Commission amend or reconsider a resolution, in this case Resolution No. 21-01 approving the modified Creekside annexation boundary, with conditions, passed at a noticed public hearing on January 20, 2021. At that hearing, two options were presented, 1) the City proposed annexation of four parcels, and 2) a modified annexation boundary that included five additional parcels, the latter of which was approved. The reconsideration request must state specific new or different facts not presented previously that warrant the reconsideration. Based on the provisions of GC §56895, staff has evaluated the reconsideration and offers two options for the Commission's consideration – 1) disapprove (deny) the reconsideration request thereby affirming the Commission's prior action on the modified boundary (Resolution 21-01), or 2) approve the reconsideration request *with an amendment* to include only those parcels originally proposed by the City be included within the Creekside annexation boundary. Staff recommends that the Commission consider both options and select the one they deem appropriate.

LAFCos are responsible under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to regulate the formation and development of local governmental agencies and their municipal services. This includes approving or disapproving proposed changes of organization, such as city annexations, consistent with adopted policies and procedures pursuant to California Government Code (G.C.) Section 56375. LAFCos are authorized with broad discretion in amending and conditioning changes of organization as long as they do not directly regulate land use, property development, or subdivision requirements.

A. BACKGROUND

Proceedings for the Creekside annexation were initiated by the City of Arcata by way of resolution of application. The City proposed annexation of 21.6 acres of land over four parcels, which included the Creekside Homes major subdivision parcel, the Ennes Park expansion parcel, the privately owned railroad right-of-way, and the Foster Avenue road

right-of-way along the subdivision parcel. This application, submitted to LAFCo in November 2020, was the culmination of a decade long planning process for development of the abandoned mill site (Creekside Homes). This included an in-depth California Environmental Quality Act (CEQA) review through an Environmental Impact Report (EIR) process over the course of several years as outlined under Section B.

Upon consideration of application and referral comments, including comments from the Humboldt County Department of Public Works, LAFCo staff analyzed and presented a modified annexation boundary and elected to hold a public hearing for the annexation and notice potentially affected landowners. The modified annexation boundary included the conservation easement parcel directly west of the Creekside Homes development, additional railroad and road rights-of-way up to Janes Road, and four additional parcels with rural residential and agricultural uses located south of Foster Avenue.

Since the City's EIR did not include potential impacts from annexation of the additional parcels, LAFCo prepared an Addendum to the City's EIR pursuant to Section 15164 of the CEQA guidelines. This Addendum addressed the minor changes and additions to the project as outlined in the EIR and discussed the minor changes to potential environmental impacts from expanding the annexation boundary to include the five additional parcels. The document was included for consideration and adoption along with the City's EIR during the public hearing on January 20, 2021.

During the public hearing held on January 20, 2021¹, the Commission received a presentation from the Executive Officer that detailed both annexation options, received a presentation from the City of Arcata Community Development Director, and heard public comment from a single landowner within the modified annexation boundary. After detailed discussion of the annexation options, the Commission chose to adopt LAFCo Resolution No. 21-01 approving the modified Creekside annexation boundary with conditions (Resolution of Approval, **Attachment A**). The conditions, as adopted are:

- a) Completion of the 30-day reconsideration period provided under G.C. Section 56895.
- b) Submittal of a final map and geographic description of the affected territory conforming to the requirements of the State Board of Equalization.
- c) Completion of conducting authority (protest) proceedings by Executive Officer.
- d) Completion of rezoning within the modified annexation area in accordance with Government Code §56375(a)(7) within one calendar year unless extended by the Commission.

¹ January 20th LAFCo staff report and related documents: <https://humboldtlafo.org/agendas-minutes-2021/>

- e) The City of Arcata and/or Humboldt County (acting on behalf of the Janes Creek Storm Drainage District Board) shall submit an application for merger of the Janes Creek Storm Drainage District within one calendar year unless extended by the Commission.
- f) Payment of any outstanding fees as identified in the Commission's adopted fee schedule.

Per GC §56895, a request for reconsideration can be submitted to LAFCo within 30 days of Commission action. The request must be made in writing, state specific modifications to the adopted resolution that are being requested, identify new or different facts or applicable new law not previously considered by LAFCo, and include required processing fees. On February 18, 2021, a request for reconsideration was received from landowners in the modified annexation boundary seeking a new annexation boundary.

Should the reconsideration request be denied, a protest hearing would be conducted to allow landowners within the affected territory to file a written protest against the Commission's original action with the Executive Officer. Once the hearing date is set, LAFCo staff mails a protest hearing notice to affected landowners within the annexation area. Alternately, should the Commission approve the City's originally proposed annexation boundary, no protest hearing would be necessary due to 100 percent property owner consent.

B. SUMMARY OF PUBLIC RECORD FOR CREEKSIDE HOMES DEVELOPMENT

Project Documents²

- Notice of Preparation – February 24, 2016
- Fiscal Impact Analysis – June 22, 2018
- Draft Environmental Impact Report – June 2019
- Notice of Availability of Draft EIR – June 26, 2019
- Public Review Period for Draft EIR – June 26 to August 12, 2019
- Final Environmental Impact Report – October 17, 2019
- Notice of Determination – February 7, 2020
- Addendum to Final EIR – January 20, 2021

Public Hearings

- City Planning Commission – May 28, 2018: Hearing was continued to July 9, 2019 meeting.

² City website for project documents: <https://www.cityofarcata.org/844/Creek-Side-Project>
LAFCo website for annexation related documents: <https://humboldtlafo.org/arcata-creekside-annexation/>

- City Planning Commission – July 9, 2019: Hearing was continued to the August 27, 2019 meeting.
- City Planning Commission – August 27, 2019: Hearing was closed with no action taken.
- City Planning Commission – October 22, 2019: Planning Commission adopted Resolution PC-19-07 with direction to consider additional circulation options. This certified the Final EIR dated October 17, 2019, adopted the CEQA Findings of Fact, and recommended project approval by the City Council.
- City Planning Commission – November 12, 2019: Planning Commission reconsidered recommendation to City Council. Resolution PC-19-07 was adopted and recommended project approval by the City Council.
- City Council – December 18, 2019: Hearing was continued to January 16, 2020 meeting.
- City Council – January 16, 2020: Meeting was disrupted by public protest and adjourned. All remaining matters were continued to January 21, 2020.
- City Council – January 21, 2020: Hearing was continued to February 5, 2020 meeting.
- City Council – February 5, 2020: Council Adopted Resolutions 190-37 (Certification of FEIR with Findings of Fact and Statement of Overriding Considerations), 190-39 (Resolution of Application to LAFCo for Annexation), 190-44 (Findings for Creekside Homes Project), and 190-45 (Approval of General Plan Amendments) and introduced Ordinance No. 1523 for pre-zoning of the annexation area.
- City Council – February 19, 2020: Adopted Ordinance No. 1523 as part of consent calendar.
- City Council – March 18, 2020: Introduction of Ordinance No. 1524 approving development agreement for Creekside Homes project and authorizing City Manager to execute final agreement with developer.
- City Council – April 1, 2020: Ordinance No. 1524 was approved as part of consent calendar.
- LAFCo – November 18, 2020: City Annexation Application filed with LAFCo.
- LAFCo – November 24, 2020: Notice of Filing (referral) sent to subject and interested agencies³.
- LAFCo – December 18, 2020: Certificate of Filing issued to Community Development Department finding application complete, setting the hearing for

³ Interested agencies means each local agency which provides facilities or services in the affected territory. This is determined by reviewing the list of taxing entities that provide services to the affected territory.

January 20, 2021, and notifying via email that LAFCo staff would be evaluating a modified boundary alternative.

- LAFCo – December 30, 2020: 21-day public hearing notice published in Times Standard and mailed to affected landowners and those within 300 ft of annexation boundary in accordance with GC §56661.
- LAFCo – January 20, 2021: Commission held public hearing and after consideration of staff report and related attachments, Arcata Community Development comments, additional written comments, and public testimony, adopted LAFCo Resolution No. 21-01 (with vote of 4-2-0), approving modified Creekside annexation with conditions.
- Reconsideration Request – February 19, 2021: 30-day Reconsideration Request filed with LAFCo.
- LAFCo – February 24, 2021: 21-day public hearing notice published in Times Standard and mailed to affected landowners and those within 300 ft of annexation boundary.
- LAFCo – February 17, 2021: Reconsideration Hearing held.

C. REQUEST FOR RECONSIDERATION

Requested Modifications to Resolution 21-01

The request for reconsideration asks that only the Creekside Homes development parcel be annexed to the City. No other modifications to LAFCo Resolution No. 21-01 were requested.

Items Listed as New Evidence in the Reconsideration Request

The following is a list of items that were provided in the request for reconsideration letters sent to LAFCo. Items have been summarized and combined so that they may be easily referenced throughout this report. The names of the persons who reference each item in their letter is provided in parentheses. Some items were provided by multiple persons. Complete letters and correspondence from reconsideration proponents can be found in **Attachment B**.

1. *Parcels in the original and modified annexation boundaries have a Storie Index of 60+. (Armstrong)*
 - This is *not* considered new evidence. The Storie Index of the Ennes Park expansion parcel was discussed by Mr. Armstrong at the January 20, 2021 public hearing. The conversion of prime agricultural land associated with the Ennes Park expansion parcel was also discussed in detail in the Draft and Final EIR for the project. In particular, the Draft and Final EIR evaluated the permanent conversion of agricultural lands that would result from the Ennes Park expansion, including the annexation, re-designation, and rezone of the parcel to Public Facilities (PF) and found the annexation to be consistent with the Arcata General Plan (particularly

the Land Use, Open Space, Parks and Recreation, and Growth Management Elements) and the Land Use Code. Furthermore, the parcels within the modified annexation boundary were also identified as prime agricultural land during the public hearing and noted for their current agricultural practices. As part of the LAFCo Addendum, the modified annexation was found to be consistent with the City's agricultural preservation and greenbelt policies. In particular, the City's General Plan Policy GM-3c, "criteria for annexation of undeveloped land areas" allows annexation of properties with a Storie Index greater than 60 if they are zoned AE. Considering the Draft and Final EIR included approved mitigation for the conversion of the Ennes Park expansion parcel in the form of a conservation easement on the adjoining parcel, and considering there are no changes in land uses or development patterns that would convert or otherwise be incompatible with the existing agricultural lands within the modified boundary, LAFCo is upholding its directive to preserve prime agricultural lands with its prior action.

2. *Complete streets can be developed in the County as shown in McKinleyville. As such, it is not necessary to annex road rights-of-way to improve street maintenance along Foster Avenue. (Armstrong)*
 - This is not considered new evidence. A full discussion of transportation impacts was included in the Draft and Final EIR for the Creekside Homes Project. The City's proposed annexation included adjacent road and railroad rights of way along the segment of Foster Avenue adjacent to the Creekside Homes Project, which is required in accordance with GC §57329. Additionally, discussion of a Memorandum of Understanding between the City and the County regarding road maintenance of Foster Avenue up to Janes Road was discussed during the public hearing and provided as a condition of approval for the City proposed annexation option which ultimately was not approved by the Commission. Instead, the LAFCo approved modified annexation boundary included the full length of Foster Avenue to Janes Road which would effectively transfer road maintenance responsibility from the County to the City to further mitigate the traffic impacts to Foster Avenue caused by the subdivision.
3. *The City of Arcata did not, and continues to not, support the modified annexation boundary. (Armstrong, Nielsen)*
 - This is considered new evidence. The City of Arcata has further clarified its position that "additional lands should not be annexed" and that "the subject lands will be subject to greater development pressure in the City than in the County" (see March 11, 2021 letter from David Loya in **Attachment C**). While the City notes that the annexation of the Ennes Park expansion parcel and the Creekside Homes subdivision parcel are consistent with the City's General Plan, the annexation of additional agricultural lands is "deficient in General Plan support". **This will be discussed further under New Evidence (NE-I).**

4. *Landowners and residents in the area were not aware of the modified annexation boundary and noticing was not conducted according to LAFCo regulations and was unclear. (Armstrong, Davidson, McFarland, Ferguson, Nielsen)*
 - **This will be discussed under Procedural Objections (PO-I).** The prior public hearing was noticed by mail and published in the Times Standard.
5. *Annexation of parcels in the modified boundary would make current agricultural practices and farmworker housing in the area illegal per City of Arcata Zoning Code. (Armstrong, Davidson)*
 - This is considered new evidence. A discussion of current agricultural practices was not provided in detail to the Commission before the annexation decision was made. **This will be discussed under New Evidence (NE-II).**
6. *There is a need for additional agricultural production in and around the City. (Armstrong, Nielsen)*
 - This is not considered new evidence. Community farming is a long standing practice in and around the City. The City operates Community Supported Agriculture at the Bayside Community Farm, and additional community farms and gardens are located in and around the City, including Deep Seeded Farm adjacent to Ennes Park. While no more shares are available to new members for Deep Seeded Farm, there are shares available at Bayside Community Farm (per City's website as of March 8, 2021).

As noted previously, the permanent conversion of agricultural land that would result from annexation, re-designation, and rezoning of the Ennes Park expansion parcel to Public Facilities (PF) was analyzed in detail throughout the City's Draft and Final EIR. In addition, the conservation easement on APN 505-151-001 was accepted as mitigation for full conversion of the Ennes Park expansion parcel. The planned annexation and expansion of Ennes Park as a neighborhood park is well documented by the city e.g., the 1975 General Plan, the 1978 Parks and Recreation Master Plan, the 2010 Parks and Recreation Master Plan, and the Parks and Recreation Element of the General Plan) and readily available in the Draft and Final EIR record when viewed as whole. While the City has no current development plans for the Ennes Park expansion parcel ultimate neighborhood park uses may include such activities as a community garden or other agricultural/open space related uses.

With regard to annexation of existing agricultural uses within the modified boundary, the annexation would not remove prime agricultural land from production, convert agricultural lands to non-agricultural uses, or otherwise preclude current agricultural operations on the parcels. This was evaluated in the LAFCo Addendum to the certified EIR where it was found that any impacts to the parcels would be less than significant as no change in land use is proposed. The land will still be available for agricultural use consistent with AE General Plan and zoning regulations.

7. *Annexation of lands in original and modified annexation boundaries would violate Humboldt County's "No Net Loss" policy for agricultural land and conveyance of a conservation easement cannot be mitigation for loss of agricultural land. (Armstrong, HCFB)*

- This is not considered new evidence. The No Net Loss policy (Policy AG-P6) was addressed in the Draft and Final EIR for the project. In regard to Ennes Park, there would be no net loss as the parcel is currently designated as PF under the Humboldt County General Plan. A full discussion of the policy can be found under Finding 2.1.2 in the Draft EIR and under Chapter 2 – Revision to the Draft EIR, of the Final EIR (pgs 10-12) and Master Response 2: Conversion of Prime Agricultural Lands. The discussion details the long history of planned public facilities for the parcel and determines that the proposed mitigation parcel is adequate to satisfy the mitigation provision of the policy.

In regard to the modified annexation boundary parcels, there will also be no net loss as the area is not proposed for a conversion of land uses. The area is currently utilized for agricultural purposes and it is expected that these uses will continue for the foreseeable future. There has been no plan or policy set by either the County or the City to indicate otherwise.

8. *Two parcels in the modified annexation area currently receive City water and sewer services and additional City infrastructure exists in the area. (Armstrong, Coyne)*

- This is considered new evidence. Existing City water and sewer infrastructure and services in the modified annexation boundary were not discussed in the prior staff report or during the public hearing. **This will be discussed under New Evidence (NE-III).**

9. *The City has begun its General Plan Update process and agricultural parcels may be subject to rezoning during the update. (Armstrong, McFarland, Nielsen)*

- This is not considered new evidence. During the public hearing, the City's Community Development Director stated that agricultural lands within the City may be subject to greater development pressure and considered for possible rezoning when seeking areas for increased housing development. The Director cited a Williamson Act farm located on Alliance Road as a parcel that is currently being looked at for potential rezoning and possible future development. Furthermore, once the parcels are rezoned, no subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the rezoning designations for a period of two years after the completion of the annexation (GC Section 56375 (a)(7)).

10. *Annexation of agricultural parcels conflicts with Arcata Land Use Code §9.94.070. (HCFB, Brown)*

- This is not considered new evidence. The Arcata Land Use Code and General Plan Policies were discussed in detail during the public hearing, in the Draft and Final EIR for the project, and in the LAFCo Addendum to the certified EIR. As stated in the code, prime agricultural lands can be annexed to the City with pre-zoning of

AE, NR, or PF. As part of the conditions listed in LAFCo Resolution No. 21-01, a pre-zoning process must be completed by the City prior to issuance of a Certificate of Completion for the parcels within the modified annexation boundary. The City has indicated these parcels would be zoned Agricultural Exclusive (AE) since they are currently designated AE on the City's Land Use Map (LU-1). Additionally, subsection (A) of the code states that annexation lands may "*only include parcels within the Urban Services Boundary identified in Section 9.94.090, and adjacent to existing urban development.*" While outside of the Urban Services Boundary, there is a provision under 9.94.090 that states "*Rural residential development within the City limits may be approved outside the Urban Services Boundary but only if the development would not require the extension of sewer, water, and other public facilities.*" The modified annexation boundary does not propose the extension of new public facilities beyond the existing Urban Services Boundary or in addition to those parcels already served.

11. *APN#505-171-004 was recently sold and is assessed at \$475,000. (Coyne)*

- This is not considered new evidence. It was known that the parcel in question was in escrow at the time of the prior public hearing. However, pursuant to Government Code §57052 and §56708, the assessed value of land is taken from the date of the City's Resolution of Application which was February 5, 2020. As such, the change in value from the recent sale of land does not apply to the current proceedings.

12. *Annexation of parcels to the City would not guarantee city services but would be taxed at the same rate as other City properties. (Coyne)*

- This is not considered new evidence. The City's Urban Services Boundary (USB) was discussed during the January 20th public hearing for the annexation. The five parcels in the modified boundary are within the City's Sphere of Influence but outside of the City's USB. While two parcels are currently receiving City water and sewer services, any new connections would be required to be within the City's USB for water and/or sewer. This would require a General Plan Amendment with consistency findings. Specifically, Arcata General Plan Policy GM-4a requires that USB modifications: 1) have existing urban uses on and adjacent to the area under consideration; 2) have sufficient infrastructure to serve the area under consideration; 3) be included in the Sphere of Influence, and 4) not adversely impact natural resources.

13. *Annexation of agricultural parcels is in direct conflict with the purpose of LAFCo as stated by GC §56301. (Brown)*

- This is not considered new evidence. The Commission and staff are aware of the purpose of LAFCo as was discussed by Commissioners during the public hearing. As stated in GC §56301, "*Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, encouraging the efficient provision of government services, and encouraging the orderly formation and development of local agencies based upon local conditions and*

circumstances." The modified annexation boundary was approved based on efficient provision of government services and local circumstances including the City's robust open space and agricultural preservation policies.

14. *Annexation of agricultural parcels is in conflict with GC §56375(a)(7). (Brown)*

- This is not considered new evidence. As stated in GC §56375(a)(7), "The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and rezoning of the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city rezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be rezoned." The City's General Plan policies were taken into consideration and discussed in the prior staff report and Addendum for the annexation. Additionally, as part of LAFCo Resolution No. 21-01, the Commission included a condition (d) "Completion of rezoning within the modified annexation area in accordance with Government Code Section 56375(a)(7) within one calendar year unless extended by the Commission." As discussed under item 10 above, the City will be subject to its General Plan policies and Land Use Code as part of the rezoning process. Furthermore, the City has indicated these parcels would be zoned Agricultural Exclusive (AE) since they are currently designated AE on the City's Land Use Map (LU-1).

15. *The Commission is not required to annex land that is substantially surrounded according to GC §56375(a)(4) and GC §56375(a)(5). (Brown)*

- This is not considered new evidence. GC §56375(a)(4) sets limitations on when the Commission may deny proposals initiated by Resolution of Application of a city seeking to annex unincorporated territory that is totally or substantially surrounded by city boundaries to encourage orderly island annexations. The city did not propose annexation of the substantially surrounded unincorporated territory and therefore the section does not apply. GC §56375(a)(5) allows the Commission to include the entire island of surrounded or substantially surrounded lands as a condition in proposed city annexations which was the basis for the modified annexation boundary.

16. *Landowners are not subject to annexation if they do not want to be annexed. (Armstrong, Nielsen)*

- **This will be discussed under (PO-II).** The Commission gives great weight to information and comments from affected landowners. No written objections were received by landowners prior to the public hearing and no verbal objections were given by property owners in attendance at the January 20, 2021 public hearing.

D. DISCUSSION

The following is a discussion of both the procedural objections and new evidence provided in the request for reconsideration. Only those items considered new evidence will be discussed in detail.

Procedural Objections:

The following section discusses items presented in the reconsideration request that are considered to be procedural objections to the Creekside Annexation proceedings. These items do not constitute new evidence in regard to annexation but are instead objections to the legality of the prior proceedings.

PO-1: Landowners and residents in the area were not aware of the modified annexation boundary and noticing was not conducted according to LAFCo regulations and was unclear.

The application as submitted by the City of Arcata included 100% property owner consent for the parcels in the City proposed annexation boundary. In this case, LAFCo could have made determinations upon the proposal without notice and hearing and waived protest proceedings entirely for the City proposed annexation in accordance with GC §56662. However, LAFCo staff analyzed a modified annexation boundary based on prior comments from the Humboldt County Department of Public Works. Since the modified annexation boundary was included as part of the annexation discussion and provided as an alternative action for Commission consideration, LAFCo staff choose to voluntarily notice and hold a public hearing for the annexation pursuant to GC §56664. As such, the meeting was noticed in the December 30, 2020 edition of the Times Standard and a 21-day mailed notice was provided to affected and adjacent landowners and voters in the area.

On December 30, 2020, a total of 127 public notices were processed and sent via first class mail to landowners and voters within 300 feet of the City proposed annexation boundary in accordance with GC §56157. Landowners and voters of parcels in the modified annexation boundary were included in this mailing. Notices were received as evidenced by the picture shown in the February 10, 2021 Letter to the Editor published in the Mad River Union newspaper. The full color notice and a description of the modified annexation boundary were also posted to the Humboldt LAFCo website under a dedicated page for the Creekside Homes Annexation.

The mailed notice included a written description of the City proposed annexation boundary and the modified annexation boundary. Two black and white maps were included depicting the two different boundaries. The notice also included contact information for LAFCo staff in the event members of the public had questions about the notice.

A comment letter was received from a property owner in the modified annexation boundary prior to the January 20, 2021 public hearing and was included as part of the

public record. The comment letter did not state any objections to the modified annexation boundary. Property owners were also present at, and participated in, the January 20, 2021 Commission meeting where the Executive Officer gave a presentation on the proposed annexation including a description of the modified annexation boundary.

Additionally, per GC §56160, the failure of any person or entity to receive notice given pursuant to Part I, Chapter 4 – Notice of the CKH Act, shall not constitute grounds for any court to invalidate any action taken for which the notice was given. As such, the noticing of public hearing cannot be considered illegal as is claimed by several of the affected property owners and adjoining neighbors.

In conclusion, while the annexation proposed by the City did not require public notice due to 100% property owner consent, LAFCo staff choose to voluntarily notice the meeting and hold a public hearing. These actions were done in accordance with current regulations as outlined in the CKH Act and adequate opportunity to seek additional information and/or clarification on the proposal was provided.

PO-II: Landowners are not subject to annexation if they do not want to be annexed.

Property owners within the modified annexation boundary state that annexation of land against property owners' wishes is unheard of. While it is desirable to have property owner consent, it is not required as is evidenced by provisions in the CKH Act for protest hearings.

In Humboldt County, prior annexations have occurred where there were landowner protests. For instance, in 2009 the City of Rio Dell annexation of parcels in the Sawmill and Blue Slide Road areas did not have full landowner support. As part of these proceedings, protests to annexation were received from four property owners. However, these protests were not sufficient to halt annexation proceedings and the properties were annexed to the City of Rio Dell (LAFCo Resolution 09-11).

Protest hearings as outlined in Part 4 of the CKH Act, commencing with GC §57000, are a regular occurrence for LAFCo changes of organization or reorganization which includes annexations. The protest hearing provides an additional forum for property owners and voters to voice their support or opposition for LAFCo actions. Should the Commission choose to deny the reconsideration request, in whole or in part, and continue with the modified annexation boundary, protest proceedings for the annexation will be scheduled in accordance with GC §57002.

Additionally, as discussed under PO-1, no opposition letters were received prior to the public hearing and landowners in attendance at the January 20, 2021 public hearing did not state any opposition to the modified annexation boundary after hearing a presentation from the Executive Office which included a description of, and rationale for, the modified boundary.

New Evidence:

The following section discusses items presented as part of the reconsideration request that are considered new evidence. The Commission shall take this new evidence into consideration before approving or denying the reconsideration request.

NE-I: The City of Arcata did not, and continues to not, support the modified annexation boundary.

The City initiated annexation proceedings by resolution of application that was discussed and approved by the City Council on February 5, 2020. The application was for annexation of four parcels as discussed in the prior staff report. This indicates the City's intentions. A formal application for annexation was submitted to LAFCo on November 17, 2020. During initial consultations between City and LAFCo staff after the application was filed, City staff reaffirmed the City's desire to only annex those parcels originally proposed.

Based on comments received from the Community Development Director at the Commission's January 20, 2021 public hearing, while the City would prefer their originally proposed boundary, they would work to preserve the agricultural land values whether in the City or the County. It was also discussed that the City had received funding from the Sustainable Land Commission for establishment of conservation easements which would be a good fit for the modified annexation boundary parcels. There was discussion of the City's Greenbelt Policy, which was referenced in the LAFCo staff report. It was also confirmed that should the additional parcels be annexed into the City they would be zoned Agricultural Exclusive (AE) since they are currently designated AE on the City's Land Use Map.

Since submittal of the reconsideration request, Director Loya has sent LAFCo staff correspondence indicating that the City's position is that the additional parcels should not be annexed because the City Council explicitly considered expanding the annexation footprint based on early input from LAFCo and County Staff. The Council rejected the expanded boundary in its adoption of the annexation approval it made. (see City comments, **Attachment C**).

The City has further clarified its position that "the subject lands will be subject to greater development pressure in the City than in the County". While the City notes that the annexation of the Ennes Park Expansion parcel and the Creekside Homes parcel is consistent with the City's General Plan, the annexation of additional agricultural lands in the modified boundary is "deficient in General Plan support". However, LAFCo staff has evaluated the annexation's consistency with the city and county general plans in accordance with GC §56668(h) and has not identified any specific conflicts with General Plan policy but acknowledge that City Policy GM-3c "does allow annexation of properties with Storie Index greater than 60 if they are zoned AE. As such, the annexation would be consistent with this policy..."

Furthermore, the City has further clarified its position that “development pressure may increase on these properties in the future since they would be substantially surrounded by urban development, have existing water [and sewer] service, and be within the City’s boundaries.” As discussed at the January 20th hearing, the modified annexation boundary is within the City’s Sphere of Influence and outside the City’s USB. While two parcels are currently receiving City water and sewer services, any new service connections would be required to be within the City’s USB for water and/or sewer. This would require a General Plan Amendment with consistency findings. Specifically, Arcata General Plan Policy GM-4a requires that USB modifications: 1) have existing urban uses on and adjacent to the area under consideration; 2) have sufficient infrastructure to serve the area under consideration; 3) be included in the Sphere of Influence, and 4) not adversely impact natural resources.

NE-II: Annexation of parcels in the modified boundary would make current agricultural practices and farmworker housing in the area illegal per City of Arcata Zoning Code.

Arcata Land Use Code cited as new evidence includes Chapter 9.42.050 – Animal Keeping. According to Subsection B.1: Table 4-1, all animals listed, including hogs, swine, rosters, and fowl, are permitted animal keeping within AE zones and do not require City approval as long practices meet setback requirements (generally 25 feet from dwelling units) and Maintenance and Operation Standards as outlined in Subsection D. Table 4-2 from Subsection C, referenced in the new evidence letter, only refers to animal keeping within the AR, RVL, and RL zones and does not apply to AE zones.

Correspondence from the City’s Community Development Director indicates that upon annexation to the City the parcels, including APN 505-162-002, would be zoned AE since they are currently designated AE on the City’s Land Use Map. As stated in the correspondence, “Furthermore, when a parcel is annexed, the existing legal uses on the property would be considered “existing non-conforming”. While this status is not as secure as a permitted use, it does allow a property owner to continue their enjoyment of the use and property until that use ceases for a period of more than one year (typically). If Mr. Armstrong’s parcel [APN 505-162-002, Tule Fog Farm] is annexed, the Community Development Department would work with his family and the County to establish existing legal uses in the County, which would become existing non-conforming legal uses in the City. [The Community Development Department] would prepare a written Zoning Clearance, which is similar to issuing a permit, for Mr. Armstrong to authorize those uses pursuant to the Land Use Code Nonconforming uses section (LUC Sec. 9.90).”

Based on the current land use code and land use designations in the area, upon annexation to the City, current legal uses would not become illegal as stated in the reconsideration request.

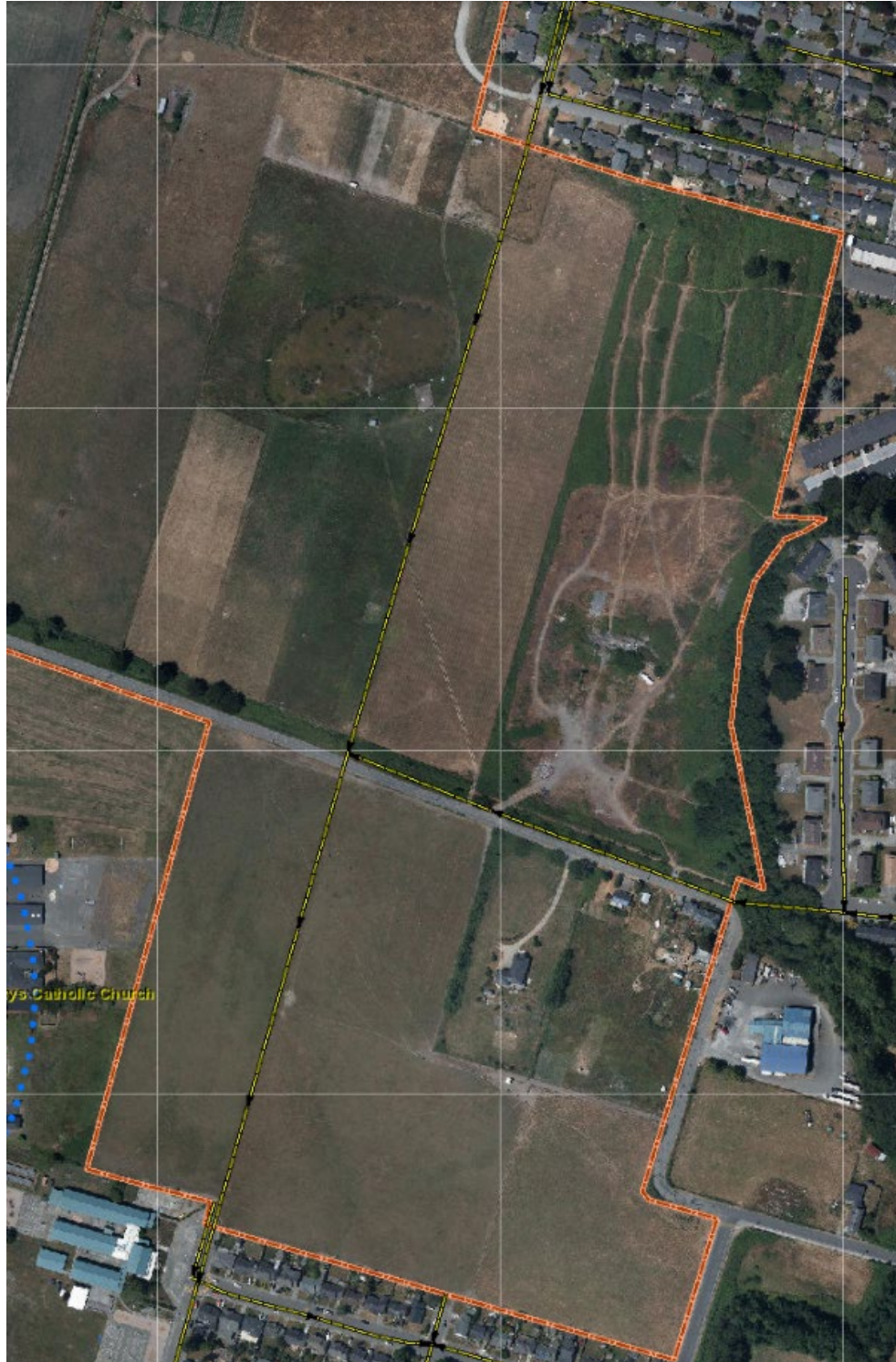
NE-III: Two parcels in the modified annexation area currently receive City water and sewer services and additional City infrastructure exists in the area.

City maintained water and sewer lines exist within the original and modified annexation boundaries. Two parcels within the modified annexation area receive water and wastewater from the City, including APN 505-162-002 (1887 Q Street, Armstrong/Pec-Crouse) and APN 505-171-006 (1983 Foster Ave, Nielsen/McFarland).

The City's water line extends west along Foster Avenue. According to Don Nielsen, the original house at 1983 Foster was connected to water service between 1918 and 1920. The below figure shows the location of the water line in blue and the current City limit in orange.



City sewer mains exists in the area along Foster Avenue and through parcels APN 505-151-001 (Park Meadow Estates; conservation easement parcel) and APN 505-171-004 (Coyne; currently vacant). The figure below shows the location of the sewer line in yellow and the current City boundary in orange.



APN 505-171-004 was recently purchased, and the landowners have indicated they wish to develop the land with a single family home and utilize the parcel as a farm (Coyne letter dated February 17, 2021). Since the parcel is currently within the County and outside of City's USB, connection to City services would require annexation and a USB modification. Should the landowners wish to connect to City services in the future, in the event there is a septic or well failure, they would be responsible for initiating the services request with the City and paying City and LAFCo fees for an outside agency services request. This would also require consent to annexation within 18 months as part of the conditions and covenants for the service extension in accordance with City of Arcata Land Use Code Section 9.94.100.

Since two of the parcels along Foster Avenue currently receive City services and an additional parcel may request services in the future, it is likely that such an annexation request may be put before the Commission again.

E. ANALYSIS

Of the evidence provided in the reconsideration request, only three items were considered as new evidence to the Commission's prior approval of Resolution 21-01 (**Attachment A**). All others were discussed as part of the previous public hearing for the annexation.

As discussed, prior to and during the January 20th public hearing, the City of Arcata expressed that while the preferred annexation would include only those parcels as outlined in the application, there were no major objections to the modified annexation boundary. Since then, the City has conveyed its opposition to the modified annexation. In addition, property owners within the modified boundary have expressed opposition to annexation. Comments from affected property owners (**Attachment B**), the City of Arcata (**Attachment C**), and members of the public (**Attachment D**) should be taken into consideration during deliberations by the Commission.

The reconsideration request also cited allowable land uses inside and outside of the City and asserts that City Ag zoning allows less uses than County Ag zoning. As confirmed by the City, all existing legal land uses on the subject parcels would continue to be allowed should the parcels be annexed into the City. This includes current legal animal keeping practices and farmworker housing. As such, existing agricultural uses could continue under the City AE zoning.

Lastly, as stated in the reconsideration request, properties within the modified annexation boundary currently receive City services. These connections were made prior to 2001 and therefore did not require LAFCo review and approval. In addition, new service extensions outside the City USB are not consistent with City policy. Additionally, the recently sold parcel may request services from the City due to the location of current infrastructure on the property. Current Arcata Land Use Code requires annexation to the City within 18 months of establishing a sanitary sewer connection. As there are currently established City service connections, there is a potential for future service requests from

parcels within the modified annexation boundary, and there is City infrastructure located throughout the modified annexation boundary, including through the conservation easement parcel. As such, the modified annexation boundary provides for logical agency boundaries and demonstrates that the City of Arcata is the appropriate provider of governmental services in the area.

F. RECOMMENDATION

Staff has analyzed the procedural objections and new evidence provided in the reconsideration request and has prepared two options for Commission consideration and action.

Option 1: Disapprove (deny) the reconsideration request.

The Commission may move to disapprove the reconsideration request. This would affirm and retain the Commission's prior action on the modified annexation boundary (Resolution 21-01) with no further determinations required. Protest proceedings would be scheduled in accordance with Government Code §57050 et seq.

"I move to disapprove the reconsideration request, thereby reaffirming Resolution 21-01 adopted by the Commission at the January 20, 2021 public hearing approving the Modified Creekside Annexation, and direct the Executive Officer to conduct protest proceedings."

Option 2: Approve the reconsideration request with amendment and conditions.

The Commission may move to approve the reconsideration request with an amendment to include only those parcels originally proposed by the City of Arcata be included within the annexation boundary (Draft Resolution 21-05, **Attachment E**). Protest proceedings would be waived since the original annexation application received 100% property owner consent.

"I move to adopt Resolution 21-05, making determinations and approving the request for reconsideration for the City of Arcata Creekside Homes Annexation, with amendment and conditions (thereby including only those parcels originally proposed by the City of Arcata be included within the annexation boundary), and recession of prior Resolution No. 21-01."

Alternatives for Commission Action:

Continue the matter for no more than 35 days, if the Commission needs more time.

This would require a special meeting of the Commission and would allow for further public comment by interested parties if necessary.

Attachments

Attachment A – LAFCo Resolution 21-01, January 20, 2021

Attachment B – Reconsideration Request “New Information” letters and correspondence from Proponents

Attachment C – City Comment Letters and Correspondence

Attachment D – Other Public Comment Letters Received

Attachment E – Draft Resolution 21-05 Approving Reconsideration with Amendment



RESOLUTION NO. 21-01

**APPROVING THE MODIFIED CREEKSIDE HOMES ANNEXATION
TO THE CITY OF ARCATA**

WHEREAS, the Humboldt Local Agency Formation Commission, hereinafter referred to as the "Commission," is responsible for regulating boundary changes affecting cities and special districts pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the City of Arcata, hereinafter referred to as "City", filed an application with the Commission by resolution of application; and

WHEREAS, the proposal seeks Commission approval for annexation of 21.6 acres adjacent to the western edge of the City boundary and within its sphere of influence in order to accommodate the Creekside Homes development; and

WHEREAS, the Commission considered a modified boundary consisting of 76.7 acres that would create a more logical boundary for the City; and

WHEREAS, the subject territory is uninhabited as defined in Government Code Section 56079.5; and

WHEREAS, the Executive Officer has elected to set this matter for hearing and give notice in the form and manner provided by law; and

WHEREAS, the Executive Officer has reviewed available information and prepared a report and recommendations on the proposal, which has been presented to the Commission in the manner provided by law; and

WHEREAS, the Commission, as responsible agency under the California Environmental Quality Act (CEQA), has prepared an Addendum to the City's Draft and Final Environmental Impact Report; and

WHEREAS, the Commission heard and fully considered all the evidence presented at a public hearing held on January 20, 2021; and

WHEREAS, the Commission considered all the factors required by law under Government Code Section 56668 and adopted local policies and procedures.

NOW, THEREFORE, BE IT RESOLVED by the Humboldt Local Agency Formation Commission as follows:

1. The Commission's determinations on the proposal incorporate the information and analysis provided in the Executive Officer's written report.

2. The Commission, as Responsible Agency, hereby certifies it has independently reviewed and considered the Draft and Final Environmental Impact Report as well as the CEQA Findings of Fact and Statement of Overriding Considerations prepared by the City in addition to the Addendum prepared by the Commission and finds that the mitigation measures proposed are adequate to mitigate the impacts of the proposed project and that the modified boundary will not increase the significance of impacts from the project.
3. The Commission approves the proposal, as modified, contingent upon the satisfaction of following terms and conditions as determined by the Executive Officer:
 - a) Completion of the 30-day reconsideration period provided under G.C. Section 56895.
 - b) Submittal of a final map and geographic description of the affected territory conforming to the requirements of the State Board of Equalization.
 - c) Completion of conducting authority (protest) proceedings by Executive Officer.
 - d) Completion of rezoning within the modified annexation area in accordance with Government Code Section 56375(a)(7) within one calendar year unless extended by the Commission.
 - e) The City of Arcata and/or Humboldt County (acting on behalf of the Janes Creek Storm Drainage District Board) shall submit an application for merger of the Janes Creek Storm Drainage District within one calendar year unless extended by the Commission.
 - f) Payment of any outstanding fees as identified in the Commission's adopted fee schedule.
4. The proposal is assigned the following distinctive short-term designation:

Creekside Homes Annexation to the City of Arcata; 21-01
5. The effective date shall be the date of recordation of the Certificate of Completion. The Certificate of Completion must be filed within one calendar year from the date of approval unless a time extension is approved by the Commission.
6. Upon effective date of the proposal, the affected territory will be subject to all previously authorized charges, fees, assessments, and taxes that were lawfully enacted by the City of Arcata. The affected territory will also be subject to all of the rates, rules, regulations, and ordinances of the City of Arcata.
7. The proposal is subject to a master property tax exchange agreement adopted by the City of Arcata and the County of Humboldt in 1980; an agreement

specifying the City of Arcata shall receive 36.36 percent of Humboldt County's existing portion of property tax revenues generated from the affected territory.

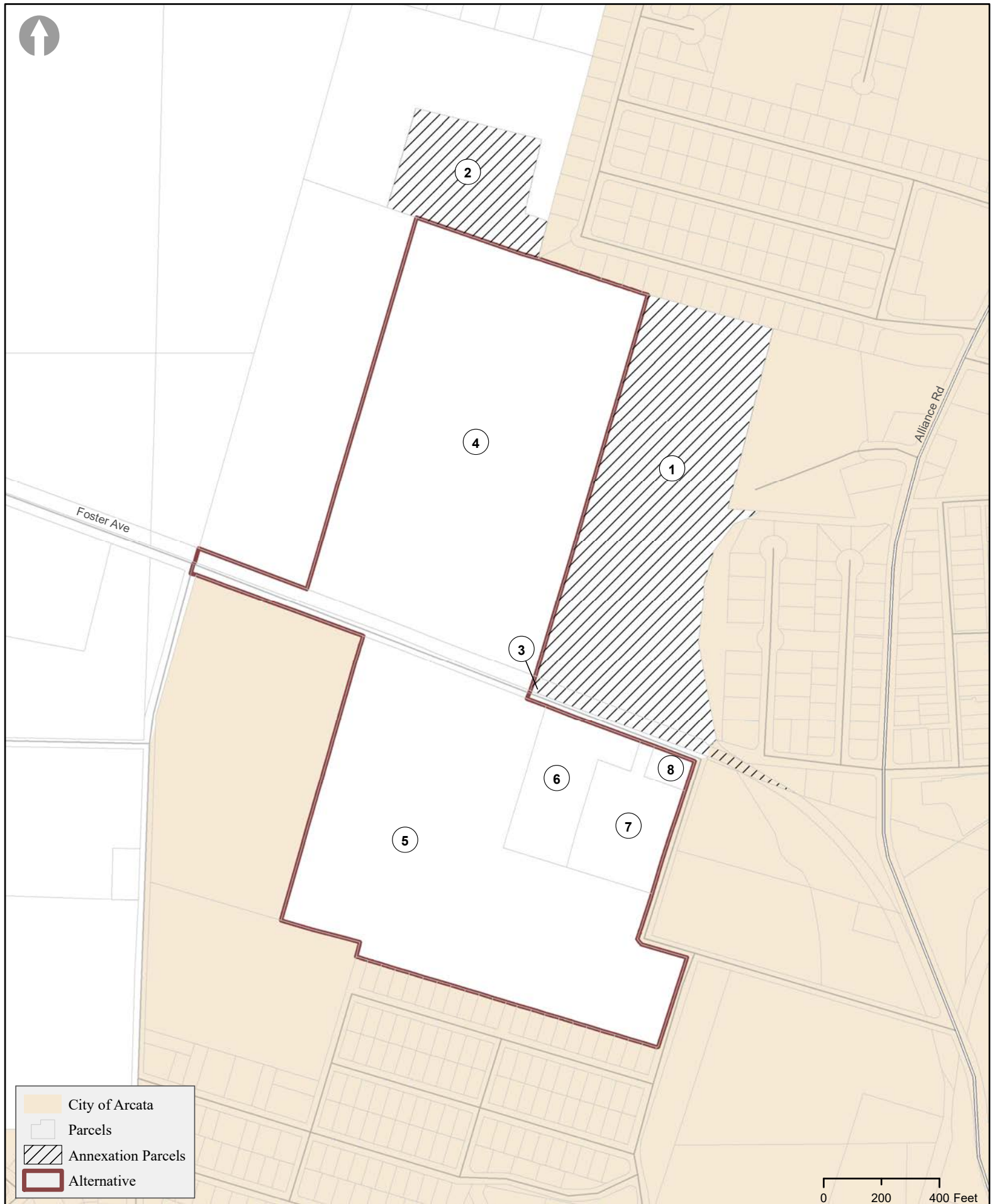
PASSED AND ADOPTED at a meeting of the Humboldt Local Agency Formation Commission on the 20th day of January 2021, by the following roll call vote:

AYES: Commissioners: Avis, Bass, Couch, Long, and Wilson
NOES: Commissioners: Lake and Lee
ABSENT: Commissioner Nicolini
ABSTAIN: None


Virginia Bass, Chair
Humboldt LAFCo

Attest:


Colette Santsche, Executive Officer
Humboldt LAFCo



City of Arcata Proposed Creekside Annexation

Figure

Date: 12/21/2020

Attachment B, Reconsideration Request New Information Letters and Correspondence

Honorable LAFCo Commissioners,

Collected below you is New Evidence for use in an Appeal for Reconsideration of the decision to Annex all Storie Index 60+ soils as part of the Creek Side Homes Annexation. These 80-100 Storie Index parcels include:

1. The .43 acre and 2.78 acre Ag Exclusive parcels of Shail Pec-Crouse (Tule Fog Farm) and Sean Armstrong at 1887 Q St and 1883 Q St, respectively.
2. The 2.5 acre parcel of Don Nielsen and Carol McFarland at 1983 Foster Ave.
3. The 23.3 acre parcel of Monica and Colum Coyne.
4. The 26.2 acre Park Meadows Estates parcel, which we have rented since 2007 as Tule Fog Farm's primary pasture.
5. The 4.2 acres of Ag Land adjacent to Ennes Park owned by the City of Arcata.

Additionally we request you reconsider the annexation of the below right-of-ways. If they are maintained in the County, there is no potential to trigger annexation of the above agricultural parcels. There is no need to Annex these right-of-ways from the County—County Public Works has demonstrated in McKinleyville that they can design Complete Streets, and can build multi-use trails such as the Hammond Trail.

6. The County Foster Avenue from Q St to Janes Rd.
7. The Rail Road Right of Way adjacent to County Foster Avenue owned by Lane Devries, a co-owner of Creek Side Homes and Park Meadows Estates

The letters submitted by our unwillingly annexed neighbors each provide New Evidence for your consideration. Thank you for considering the New Evidence I have summarized here:

1. It is New Evidence that in the February 10th print edition of the Mad River Union (see excerpt at the end), the City of Arcata Director of Community Development was quoted as saying:
 - a. The city "didn't ask for it and doesn't want it."
 - b. "I believe that these parcels have a higher risk of development if they're in the city."
 - c. It was "a really weak argument" that expanded annexation would allow dissolution of the Janes Creek Stormwater Drainage District
 - d. It was an "aesthetic desire outweighed by the need for agricultural preservation" to "prevent the creation of a partial island between Foster Ave and Janes Road."

2. It is New Evidence that my household strongly objects to Annexation. We were unaware that that the three parcels we farm were being considered for annexation, or we would said so at the January 19th meeting. We have been told by a long-time previous LAFCo member that it is unheard of in Humboldt County to annex unwilling property owners.

3. It is New Evidence annexing our .43 acre parcel into the City would make our hog/swine farming operation and our sheep farming operation illegal. (see adjacent Table 4.2-"Animal Keeping Standards" from Chapter 9.42 of the Arcata Land Use Code) It is New Evidence that the Agricultural Exclusive zoning of the City of Arcata is more restrictive of animal-based agriculture than the County, such that the rare grass-fed hogs we raise to sell at the Arcata Farmers Market would be a non-conforming use at greater than 4 per acre. It is New Evidence that during the

Type of Animal or Facility	Maximum Number of Animals per Site (1)	Minimum Lot Area (2)	Minimum setback from Dwellings (3)
Aviary for birds other than fowl and poultry	1 per 500 sf of lot area		25 ft
Beekeeping	4 hives per lot of 10,000 square feet or less. No limit for lots greater than 10,000 square feet (4).	2-1/2 acres in AR (See Note 4)	20 ft (4)
Fowl and poultry	1 per 500 sf of lot area		25 ft
Hogs and swine	4 per acre	1/2 acre in RVL 2-1/2 acres in AR	25 ft
Horses and cows	4 per acre	1/2 acre in RVL 2-1/2 acres in AR	25 ft
Other small animals - Including chinchillas, rabbits, non-poisonous reptiles, rodents, and other non-poisonous small animals.	No limitation when maintained within a dwelling as a household pet; 1 per 500 sf of lot area otherwise.		25 ft
Other medium animals - Pigmy goats, pot belly pigs, and miniature horses.	12 per acre		25 ft
Other large animals - Emus, goats, llamas, donkeys, ostriches, sheep, and similar sized animals.	8 per acre	1/2 acre in RVL 2-1/2 acres in AR	25 ft

Spring piglet season we maintain a density of 200 pigs per acre in our Birthing Barn on our .43 acre parcel. It is New Evidence that we maintain more than 8 sheep per acre on our .43 acre parcel, and Annexation would again make our farm illegal in the City.

4. It is New Evidence that Eddie Tanner's Deep Seeded Community Farm, on 9 acres of Arcata School District Land adjacent to the 4.2 acres of City owned ag land, has sold more than 300 shares for 2021 and has more than 100 people on the waiting list. This is new evidence of the huge, unmet demand for locally grown produce in Arcata, and the potential for the City of Arcata to rent this ag land to a farmer and fulfill the General Plan's food security goals, rather than illegally violate Arcata General Plan Annexation policies and LAFCo law. This ag land should not be annexed for any type of park—it is valuable, highly productive ag land in an ideal location for a community farm.
5. It is New Evidence that Tule Fog Farm needs to use the City's 4.2 acre Ag Parcel for vehicular access to the 26.2 acre Park Meadows Estates ag parcel we rent and farm. This access on City ag land is essential to the operation of our farm during the winter season when our summer access from Foster Avenue is under water. Without vehicle access, we cannot load our swine, sheep or cattle for transport to Eureka Meats. It is New Evidence that the City of Arcata has unsuccessfully attempted to block our vehicle access with large boulders, which LAFCo members should assume would become more aggressively restrictive should the land be used as a City Park.
6. It is New Evidence that the Farm Bureau strongly objects to annexation of these 60+ Storie Index parcels (see the Farm Bureau's letter copied and pasted below).
7. It is New Evidence that the Farm Bureau has reminded LAFCo that Humboldt County has a "No Net Loss" policy for ag land, and converting County Ag Land to City Park Land cannot be mitigated by a conservation easement. LAFCo's County representatives would be violating the County's No Net Loss policy should they vote a second time to Annex any 60+ Storie Index parcel, regardless of its ownership.
8. It is New Evidence that in 1981 the City of Arcata extended Water and Sewer to our ag parcel at 1887 Q St, and Don & Carol's ag parcel at 1983 Foster Ave. The EIR and LAFCo Staff Report both fail to disclose or analyze impact of annexing Ag Land with existing Urban Services, even though these parcels lie outside of the existing Urban Services Boundary.
9. It is New Evidence that the assurances contained within the existing Arcata General Plan cannot be relied upon while deliberating an Annexation. It is New Evidence that the City of Arcata's Director of Community Development has begun public Visioning Sessions as of December 15, 2020, one month prior to the LAFCo meeting, but not analyzed in the EIR or LAFCo Staff Report. It is New Evidence then that the existing zoning of AE parcels, particularly those of a non-conforming size of less than 20 acres, will be examined for rezone in the new General Plan process.

In summary, LAFCo should consider this New Evidence and annex ONLY the Creek Side Homes parcel, and no other. All other parcels proposed for Annexation jeopardize the future agricultural productivity of this land, and support conversion to residential development under the new Arcata General Plan being developed. Such a result is illegal by your own operating laws. Such a result is unethical, to deprive us of our livelihood to support a residential subdivision. Such a result is political, favoring the wealthy developers over lower-income farmers, and will be the subject of political discussion and repercussions in a County that robustly supports agriculture in all of its published policies and economic planning.

Thank you for considering our request that ONLY the Creek Side Homes parcel be annexed. That is all that is necessary for the Creek Side Homes development proceed.

Sincerely,

Sean Armstrong & Shail Pec-Crouse
Tule Fog Farm
1887 and 1883 Q Street, Arcata, CA
707-826-1450

Excerpt from February 10th, 2021 Article in the Mad River Union

Janes Creek Stormwater Drainage District, which LAFCo called "logical." Community Development Director David Loya called that "a really weak argument."

- It would "prevent the creation of a partial island between Foster Avenue and Janes Road," one "surrounded by city property. But Loya downplayed that as an "aesthetic desire outweighed by the need for agricultural preservation."
- Agricultural preservation. The addendum cites Arcata's General Plan and zoning policies within the Western Greenbelt as providing sufficient protection.

But Loya disagrees. At the meeting he offered qualified support for the LAFCo-authored expansion with a "light" recommendation to stick to the original, city-submitted proposal. He said the city would do its best to accommodate the involuntarily added lands, and to preserve and protect them. But he later made clear his position that ag protections are stronger with the lands remaining in the county.

"I believe that these parcels have higher risk of development if they're in the city," he said. While current policies discourage development, a future, housing-hungry City Council looking for developable areas could see the vast tracts of undeveloped land and ease restrictions.

LAFCo Commissioner and county Supervisor Mike Wilson expressed skepticism about the strength of county ag protection, and said it would be stronger within Arcata city limits. Some other commissioners agreed.

But citing examples elsewhere in the city, Loya said rezoning from ag to residential would be an "easy step" for a future council under development pressure.

"This was not a city decision," Loya later said. "We didn't ask for it and don't want it." He said the expanded annexation is "not supported" by the city's current General Plan.

Disagreement exists over whether an appeal of the LAFCo decision is automatically triggered or not. Brown and others believe it is not, and want the City of Arcata to sponsor one. City Manager Karen Diemer said she "[doesn't] see a route for the city to appeal," but that her reading of the matter is that a protest hearing is automatically triggered.

Interestingly, while Creek Side Homes is only the latest of several controversial attempts by DANCO to establish a housing project on the Bottoms, for the first time, the focus of objections isn't the development itself. Also, the development continues to be referred to as both "Creek Side" and "Creekside" in various planning documents.

View maps and read correspondence from annexation stakeholders and others at madriverriverunion.com.

Rentals | Capped at 100

Councilmember Em-



Humboldt County Farm Bureau

5601 So. Broadway, Eureka, CA 95503
Serving Agriculture Since 1913

February 18, 2021

LAFCO
1125 16th Street Suite 202
Arcata, Ca 95521

Dear LAFCO Board Members:

The Humboldt County Farm Bureau is an organization of family farmers and ranchers. The Farm Bureau Land Use Committee tracks potential conversion of Ag Lands in Humboldt County to ensure the continuation of Agriculture in our County for future generations.

Recently we were informed of LAFCO's approval to expand the existing annexation boundary for the Creek Side Homes Project in Arcata.

This project is in conflict with the City of Arcata General Plan and removes prime agriculture land from production. In addition, this approval appears to conflict with LAFCO's duty to protect productive agricultural lands.

This project is in direct conflict with the current Arcata General Plan that specifically states undeveloped land may be annexed into the City only if the proposed annexation will:

F. **Not** include prime agriculture land (Storie|Index of 60 or higher) other than with a designation and pre-zoning of Agriculture Exclusive (A-E), Natural Resource ® or Public Facility (P-F).

Humboldt County has a "No Net Loss of Ag Lands" policy and the conveyance of a conservation easement over an adjoining parcel is in no way mitigation for the loss of prime soils.

The Humboldt County Farm Bureau opposes this annexation and would like LAFCO to reconsider this decision.

Sincerely,

Johanna Rodoni

President



Fwd: Farmland Annexation

Karen Davidson

Thu, Feb 18, 2021 at 7:55 PM

To: Sean Armstrong, Carol McFarland, Don Nielsen, Tule Fog Farm, Monica Coyne, Lisa Brown

----- Forwarded message -----

From: **Karen Davidson** <karendavidson61@gmail.com>

Date: Thu, Feb 18, 2021 at 7:51 PM

Subject: Farmland Annexation

To: Colette Metz <colettem@humboldtlafo.org>

Humboldt LAFCo,

Sometimes the most obvious answer is also the correct one.

Obviously landowners should not be annexed against their wishes, best interests and advance knowledge.

What is our evidence that the owners did not know, you might ask?

I propose that it is the owners of the land who are known for their views that are the proof that is needed.

The sisters who were selling their land did not know of the annexation in advance because when they read about it in the Mad River Union they threatened to sue their grandson/nephew realtor for selling 23 acres at an agriculture price; they wanted double because now it could be developed.

The new owners Monica and Colum Coyne had not closed on the land yet so couldn't speak as owners at that time and have joined the request for reconsiderations now.

Carol McFarland and Don Neilsen moved their family home back from the road in 2007 when they feared they were losing their very vocal fight to keep Creekside from being developed. They did not know or would have made public comments and sent letters. They would have let the Mad River Union know as they did when they found out. They have joined in the request for reconsideration.

The third couple of farmers are Sean Armstrong and Shail Pec-Crouse. My son Sean was born on a farm and I always owned a farm. They have been land use activists in Arcata for over twenty years and were thrilled to be able to own farmland. They imported a New Zealand breed of sustainable pigs and built a business on pigs and eggs. But pigs are a nuisance in the city and so are roosters. So is farmworker housing. As a family we all spoke at every meeting about the Creekside annexation before the night it was voted on over a year ago. We hate the idea of Foster being the only entrance to all 1100 new cars each day and the old City Council were well aware of our views. Sean was concerned about Ennis park and spoke about that at the LAFCO meeting. Had he known he would have used his one chance to speak for self interest. After he spoke your rules made it impossible for him to speak again. Even if he had stayed in the meeting he could not have spoken. Had we known however, Shail certainly would have spoken.

The Mad River Union was surprised and had heard nothing in advance.

The City Council was surprised.

Mayor Winkler did not know.

DANCO did not know.

So the obvious answer is LAFCO did not notify correctly. There was no public awareness yet the topic had always been contentious. After the vote I saw the letter Sean received and I did what he had done. I read the first half and saw it was the same plan the City voted on. I saw the bold bar with bold writing at the center where it said 100% of the owners had agreed. So why would the "below the fold" be about us? We had never been consulted so we were not in the 100 %.

And then the maps. I understand your maps had plan A and plan B south of Foster differentiated by colors but in the map you sent out they were both grey lines. That meant the first page and the map were both misleading and hard to

2/19/2021

understand. Now we have to pay \$1000 to a private company, PlanWest, because you couldn't afford to notify three families with color maps well in advance. New Years Eve was not well in advance.

I am hoping you will reconsider on the basis of landowners not being given adequate notice and their objections to being annexed.

Sincerely ,
Karen Davidson
Tule Fog Farm
[1887 Q Street](#)
[Arcata, CA](#)
[95521](#)

February 17, 2021

MEMORANDUM

TO LAFCo Board Members and Staff

FROM Carol A. McFarland, Homeowner, 1983 Foster Ave., Arcata, CA

RE Reconsider new information regarding annexation

We have written to LAFCo previously to protest the annexation of our parcel #APN 505-171-006 from the County to the City of Arcata, and would like to express once again, that we do not wish for our property to be annexed; and that we also ask you to consider newly-found information and evidence to support our desire to remain under the County's jurisdiction.

We believe that the LAFCo decision was based on the incorrect understanding that somehow we did not object to annexation. This assertion is false. We have asserted we are not in favor of annexation for the past 20 years in numerous public meetings.

As a matter of fact, we had no knowledge of the annexation decision until January 30, 2021, when we were informed by an adjacent property owner that such a decision had been made. Three adjacent property owners also found themselves in the annexed group of parcels without prior knowledge.

Bloomfield Acres property owners to the south of our parcels and within the 500-foot boundary which required notification by LAFCo, also had no knowledge of the LAFCo action.

Finally, we believe that the LAFCo decision was based on the incorrect understanding that the Arcata General Plan provides indefinite protections, when in fact the City just initiated a new General Plan Process in December, 2020.

We respectfully submit our evidence and again assert that we have been annexed without notice and without an opportunity to express that we most definitely do not wish to be annexed, which makes the whole action, we believe, to be illegal.



Letter to LAFCo

Don Nielsen

Fri, Feb 19, 2021 at 1:42 PM

To: Sean Armstrong

February 19, 2021

MEMORANDUM

TO LAFCo Commissioners and Staff

FROM Donald Nielsen, Homeowner, [1983 Foster Ave., Arcata, CA](#), APN# 505-171-006

RE Presentation of New Evidence in our Appeal for Reconsideration of LAFCo's Annexation Decision

My primary concern involving this annexation issue is that at no time in the recent past prior to LAFCo's January 20, 2021 meeting did either my wife, Carol McFarland, or I, receive any notification from either LAFCo or the City of Arcata that our property was to be annexed into the city, rather than remain under County of Humboldt jurisdiction. I feel that the decision by LAFCo is highly likely to be illegal and as a result the entire area under consideration in this action is null and void.

It is clear to me that with the exception of Sean Armstrong's receipt of two black and white maps, which were very unclear, on December 31, 2020, that none of the affected property owners in the Modified Boundary Area were properly notified. For example, the Gilardoni sisters, Marla and Rayelle, are my age. Marla and I were classmates in grades 1-12 and Rayelle was a classmate of my late younger brother. They were in escrow over the sale of their property to the new owners, Colum and Monica Coyne. The sisters were very upset when they found out about the annexation decision and attempted, unsuccessfully, to back out of escrow, seeking an opportunity to obtain a much higher price for their parcel if, indeed, it came under Arcata jurisdiction. We are also aware of at least four property owners on the North side of Iverson Street, which is adjacent to the Coyne's property, received no notification, as required by law.

If the City of Arcata does end up sometime in the near future to upgrade/change the 2020 General Plan, which might then allow rezoning and development of these agricultural exclusive parcels would be in serious jeopardy of development, the last thing any of us wants to see. My wife and I are now in negotiations to, at our demise, obtain a conservation easement to assure that our property remains, in perpetuity, in agricultural use only. This possibility also puts Eddie Tanner's Deep Seeded Farm in jeopardy of also being lost to development. It is our view that all of the current AE land be kept in food production. Hungry people do not need new houses; they couldn't afford them anyway.

It has also been pointed out to us by at least two long time members of LAFCo that in their recollection, no previous landowners against annexation were turned down.

Arcata City Manager Karen Diemer, in her letter to property owners dated February 19, 2021, states that "In closing, I will again assure you that the City has made no attempt to advocate for the annexation of your property."

In conclusion, Carol and I emphatically choose not to be annexed to the City of Arcata and wish to remain under County of Humboldt jurisdiction and request that LAFCo reverse its decision made on January 20, 2021.



Reconsideration of 1/20/2021 Modified Annexation Boundary

Don Nielsen

Mon, Mar 8, 2021 at 9:04 PM

To: Colette Metz <colettem@humboldtlafo.org>

MEMORANDUM

Can you explain how LAFCO's decision to annex my property to the City of Arcata from my neighbor, who was similarly affected, 10 DAYS AFTER LAFCO's decision was made? As an 81 year old retired teacher with over 35 years experience in the classroom, I think I have heard every excuse, but this one defies explanation.

First and foremost, how can this decision stand without any response from the newly affected landowners, since none of us were notified prior to the meeting? How can your decision hold up without the backing of the City of Arcata manager and council members? How can it stand when it is in direct violation of several sections of Arcata's General Plan and its Land Use Code as it pertains to prime agricultural land?

The non-notification issue is very important here, since I am sure that if any of us had been notified, as required by law, you would have heard from us very quickly. I KNOW THAT I DID NOT RECEIVE ANY PRIOR NOTIFICATION, because if I had I would have quickly discussed it with my wife and responded to LAFCO. I am also secure in saying that I believe the other landowners weren't notified because of their responses since January 20. I have also spoken with several people who live on or next to this modified boundary and none of them indicated that they received notification. I have also spoken to a veteran local attorney who has long been involved in property issues that he believes that this issue alone should probably make LAFCO's decision null and void, including the Creekside Homes property.

In conclusion, I DO NOT WANT TO BE ANNEXED TO THE CITY OF ARCATA.

Donald Nielsen

~~~~~  
Don Nielsen  
1983 Foster Avenue  
Arcata, CA 95521-9503  
[danielsen@humboldt1.com](mailto:danielsen@humboldt1.com)  
707.616.7209

PS —Colette, please forward this message to all LAFCO commissioners and alternates





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## Water, Sewer Connections

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**Don Nielsen**

Thu, Mar 11, 2021 at 9:46 AM

To: Colette Metz <colettem@humboldtlafo.org>

Hi Colette,

I wrote a letter to Mike Wilson yesterday on this issue, and will copy it to you for distribution to all the commissioners and alternates.

Hello Mike,

Here's what I was told, probably over 70 years ago: My maternal grandparents, Lars and Emma Carlson, bought the house and the original acreage of about .3 acres, from Pete Sacchi sometime between 1918 and 1920. The house had city water and complete indoor plumbing when they bought it. Sacchi, the first new automobile dealer in Arcata, probably had enough connection to get that to happen when he had the house built a few years prior.

With regard to the sewer connection, shortly after I bought the house from my mother in 1979, the septic system failed. This was in the early 1980's, but I don't remember the exact time. I spoke with Arcata public works director Frank Klopp, who had been a close friend of my late father, about the possibility of obtaining a city sewer connection, and he agreed to do so, since the sewer line was already in place, directly across the road (now Foster Avenue). So I followed Mr. Klopp's advice, which was clearly the best choice and most cost effective for me.

Don Nielsen

~~~~~  
Don Nielsen
1983 Foster Avenue
Arcata, CA 95521-9503

February 17, 2021

Dear LAFCo board,

We are the new owners of the property on Foster Avenue, APN# 505-171-004. We have lived in Humboldt county for 43 years. We both went to Humboldt state in the 70's and 80's and lived in Arcata for 11 years. We have lived on a farm in Southern Humboldt for the past 32 years. We have always had a plan to move back to the Arcata area and when we saw the land on Foster we thought it would be a perfect fit for us. We could live there and have a small farm. The property was near Arcata but it was in the county of Humboldt. We see this as an advantage. This would keep it shielded from the pressures and fluctuations that occur in city government. In my conversations with the city it seemed we would not be guaranteed services so the extra taxes would be burdensome.

We had an offer accepted on the property and went into escrow on January 5th. We had no idea at that time that the property was up for annexation. We learned about the possibility on the 8th and wrote to the LAFCo staff. We were informed that the meeting was on the 20th. We attended the meeting but did not comment because we did not yet own the property and we have had no experience with the LAFCo process.

Over the years we have seen many changes. From the proposed large subdivisions of the 90's to the shrinking of the logging and fisheries industry to the legalization of marijuana. Change has been the only constant. We have lived through many changes in city and county government. At times we have been surprised by the amount of green belt in Arcata that has sprouted into housing. Of course, this is to be expected. As the population grows the need for housing grows. Right now, the city of Arcata states that it would like to maintain the area of the bottoms as working agricultural land. This is what we want too and staying in the county is, historically, the best way to insure this happens. There are sure to be fluctuations in city government in the future. Our property on Foster is exposed to those changes. There is a city sewer main running across the property. There is existing city water on the border with Foster avenue, and on Q Street R Street and S Street. The location of these services makes the property vulnerable to upzoning and to subdivision if it is annexed.

As the owners of APN# 505-171-004 we would like the LAFCo board to reconsider and reject the modified annexation boundary to the Creekside Annexation. The new facts are as follows:

1. We own a piece of property in the proposed modified boundary, APN#505-171-004. The property is assessed at \$475,000 and we are opposed to the annexation.

2. Annexation into the city of Arcata will not provide us with the opportunity for city services but will require us to pay city taxes.
3. There is a city sewer main running across the property. There is existing city water on the border with Foster avenue, and on Q Street R Street and S Street. The location of these services makes the property vulnerable to upzoning and to subdivision if it is annexed.

Sincerely,
Monica and Colum Coyne

Hello LAFCo Commissioners ,

My name is Monica Coyne. My husband, Colum Coyne and I own APN# 505-171-004. Because there are no APN#'s on the map we will identify the property as 23 acres on the south side of Foster. It is a large L shaped piece of property across Foster and just west of the Creekside Homes Subdivision.

We have a few points to make regarding the Modification to the Creekside Annexation.

I spoke with Mike Wilson about the annexation and about my thought that the property would be at less risk of development if it remained in the County. I spoke to the city of Arcata and they told me that even if we were annexed, we would not get services. Mike Wilson told me that if we were annexed, we could get city services if we signed a conservation easement. A conservation easement is a huge deal that we do not take lightly. It involves signing over some rights and control over your property to the city or to some other nonprofit. Just to be clear. We are not ready at this time to sign a conservation easement.

One of the reasons that we bought APN#505-171-004 was because it was in the County of Humboldt. We want to farm the property. The property is zoned Agricultural Exclusive (AE). It is prime Ag land. It is prime farming and grazing land that has been being farmed and grazed for more than 120 years. Humboldt County is set up to manage land that is zoned AE and has managed it this far.

When we found out that LAFCo wanted to annex our land into the county we began to research LAFCo. We found some information that indicates that LAFCo and the city of Arcata are hoping to develop this land. We looked up the rules and policies for LAFCo. Below are some of the LAFCo rules and how they relate to this issue.

1. 1.7. LAFCo discourages the annexation of vacant land, or extension of urban services, unless there is a demonstrated near term (within five years) need for services.

Our land is vacant. Has LAFCo and the city of Arcata determined that there is a near term need for services on our land?

2. 1.9. Prior to annexation to a city or special district, the petitioners shall provide information demonstrating that the need for governmental services exists, the annexing agency is capable of providing service, that a plan for service exists, and that the annexation is the best alternative to provide service (§56700, §56668).

We have not seen an existing plan to provide services.

3. 1.14. LAFCo shall disapprove proposals that extend urban services to land subject to a Land Conservation contract or agricultural preserve unless it can be clearly demonstrated that disapproval will discourage orderly and timely urban development (§56001, §56301) and no feasible alternative exists.

LAFCo appears to be all about urban development

4. 2.1. LAFCo promotes the timely conversion of land to urban uses and will effectuate this goal through encouraging infill development on incorporated vacant lands located adjacent to already developed areas (§56301, §56377).

More evidence that LAFCo is about encouraging infill development. We are vacant land and adjacent to developed areas. LAFCo is promoting the timely conversion of our land to urban uses?

5. 3.3. The annexing agency must demonstrate that no parcel located within the district's service boundaries will be deprived of its right to receive services if the annexation is approved (§56668).

If we are annexed, we will not be deprived of our rights to receive services.

We are opposed to the Modification to the Creekside Annexation. We are opposed to having our property APN#505-171-004 annexed into the city of Arcata.

If LAFCo does decide to annex our property we will expect to receive all city services including sewer and water.

Thank you,
Monica and Colum Coyne

February 19, 2021

Honorable LAFCo Members,

As an agricultural land owner in the City of Arcata for the past 24 years and a producer of commercial organic apples, I am convinced that agricultural land vulnerability within the city is largely a function of ownership and the will of an owner to steward the land or develop it. Protective policies act as a shield but they must be defended to be effective and when land use policies designed to protect these lands are ignored, as has been done by the action to approve the "Modified Boundary", these precious resources are put at risk.

For this reason, I am joining a Request for Reconsideration of the CreekSide Homes Modified Boundary Annexation and offer New Evidence (1-3) below for your consideration.

To continue to move ahead with the annexation of five prime agricultural parcels, justified as facilitating road and storm water management, not only goes against the City of Arcata's General Plan, but is an abrogation of the fundamental legal charge and mission of this Commission to protect agricultural resources from future development.

Annexation has been recognized as an inherent danger to agricultural land use since 1959 when Governor Brown created a commission to work to reduce the conversion of California's agricultural land to urban uses. In 1963 LAFCO was formalized through legislature to fulfill this primary mission.

Government Code Section 56301 defines the purpose of the LAFCO:

1. New Evidence of Conflict with Legal Mandate to preserve Prime Agricultural Land.

*Among the purposes of a commission are discouraging urban sprawl, **preserving open-space and prime agricultural lands**, encouraging the efficient provision of government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances.*

All of the land proposed to be annexed by resolution of your commission is Prime Agricultural Soil by definition. It is inconsistent as per Division 3 to promote annexation of prime agricultural land and is doubly contradictory to the mission of LAFCO.

Please review the pertinent sections of Government Code, Title 5, Division 3, Part 2, Chapter 3 Powers [56375] found below for your convenience to demonstrate:

The Commission is required to be consistent with the city's general plan:

2. New Evidence of Conflict with Legal Mandate for annexation to be consistent with City of Arcata's General Plan.

*(7) The decision of the commission with regard to a proposal to annex territory to a city **shall be based upon the general plan and rezoning of the city.** When the development purposes are not made known to the annexing city, the annexation **shall be reviewed on the basis of the adopted plans and policies of the annexing city or county.** A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, **and are consistent with the city's general plan.** However, the commission shall not specify how, or in what manner, the territory shall be rezoned.*

Please read below the most pertinent of the city's code that is in direct conflict with the actions of this Commission, specifically (A).

Arcata Land Use Code Section 9.94.070 Criteria for Annexation of Undeveloped Land

Undeveloped land may be annexed to the City only if the proposed annexation will:

- A. Only include parcels within the Urban Services Boundary identified in Section 9.94.090, and adjacent to existing urban development;**
- B. Not exceed the City's capacity to provide services and infrastructure to accommodate the proposed development;
- C. Be timed so that the availability of services and infrastructure is concurrent with the anticipated need;
- D. Have either a positive or neutral fiscal impact, or other overriding public benefits;
- E. Comply with all applicable General Plan policies; and
- F. Not include prime agriculture land (Storie Index of 60 or higher) other than with a designation and rezoning of Agriculture Exclusive (A-E), Natural Resource (NR), or Public Facility (P-F).

The City of Arcata is guided by multiple documents (General Plan 2020 and its supportive Land Use Code, the City's Open Space Plan and Greenbelt Plan) that have developed with full community involvement and support over the last twenty years. All of these planning documents contain language specifically designed to prevent the annexation of the parcels included in the "Modified Boundary".

The tools available to accomplish this have been applied to the parcels, specifically the AE designation and their exclusion from the Urban Services Boundary coupled with LUC Section 9.94.090.

The exclusion of the parcels in question from the Urban Services Boundary was not only to prevent service extension to these parcels, but to **prevent these parcels from being annexed into the City.**

Note: the Commission is not obligated to approve the “Modified Boundary” due to it being substantially surrounded by city territory.

3. New Evidence of Legal Allowance to not annex prime agricultural land even if it is substantially surrounded by city.

Chapter 3 Powers. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(4) A commission shall not disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

*(A) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, **is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city,** and is not within the sphere of influence of another city.*

*(B) Located within an urban service area that has been delineated and adopted by a commission, **which is not prime agricultural land, as defined by Section 56064,** and is designated for urban growth by the general plan of the annexing city.*

(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

*(5) As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission **may require, where consistent with the purposes of this division,** that the annexation include the entire island of surrounded, or substantially surrounded, territory.*

Please consider all of this new information not fully disclosed in your original staff report and rescind the “Modified Boundary” so the original annexation brought to your staff by Resolution of the City of Arcata can proceed without further ado.

Thank you.

Lisa Brown, Arcata



Creekside/Ennes Park Annexation Reconsideration

David Loya <dloya@cityofarcata.org>

Fri, Mar 5, 2021 at 4:54 PM

To: "Colette Metz Santsche, AICP" <colettem@humboldtlafo.org>

Cc: Delo Freitas, Joe Mateer, Jennifer Dart, Karen Diemer, Sean Armstrong, Kevin Hoover, Lisa Brown

Dear Colette,

I understand that you recently received an email from Sean Armstrong laying out his concerns that his farm would be deemed illegal if annexed into the City. I am writing to provide you information regarding this matter.

If annexed, the parcel would be zoned Agricultural Exclusive (AE) since it is currently designated AE on the City's Land Use Map (LU-1). Animal keeping is a principally permitted use on AE (Table 4-1, Land Use Code Sec. 9.42.050.B.1). The animal densities Mr. Armstrong cites from table 4-2 apply to AR, RVL, and RL zones. Subsection C, specifically excludes all but the setback requirements in table 4-2 on AE parcels. In short, there is no density limitation on animals that are allowable in the zone (all of the animals Mr. Armstrong listed he currently keeps are allowable in the zone).

Furthermore, when a parcel is annexed, the existing legal uses on the property would be considered "existing non-conforming". While this status is not as secure as a permitted use, it does allow a property owner to continue their enjoyment of the use and property until that use ceases for a period of more than one year (typically). If Mr. Armstrong's parcel is annexed, the Community Development Department would work with his family and the County to establish existing legal uses in the County, which would become existing non-conforming legal uses in the City. Our department would prepare a written Zoning Clearance, which is similar to issuing a permit, for Mr. Armstrong to authorize those uses pursuant to the Land Use Code Nonconforming uses section (LUC Sec. 9.90).

The City's position remains that the additional parcels should not be annexed. There are several underlying reasons for this position. Ultimately, the strongest reason is that the Council explicitly considered expanding our annexation footprint based on early input from LAFCo and County Staff. The Council rejected the expanded boundary in its adoption of the two parcel annexation approval it made in April of 2020.

I am hopeful that the Commission will reconsider their position on the expanded boundary based on the input of the affected property owners and the City, but this is a LAFCo decision.

Please feel free to contact me if you have any questions about the information provided here.

David Loya (him)

Community Development Director

City of Arcata

p. 707-825-2045

www.cityofarcata.org



Colette Metz <colettem@humboldtlafo.org>

Creekside Homes/Ennes Park Reconsideration Hearing Letter

David Loya <dloya@cityofarcata.org>

Thu, Mar 11, 2021 at 9:00 AM

To: Colette Metz <colettem@humboldtlafo.org>

Cc: Karen Diemer, Delo Freitas, Joe Mateer, Jennifer Dart, Lisa Brown, Don Nielsen, Karen Davidson, Monica Coyne, Sean Armstrong, Kevin Hoover

Dear Ms. Metz,

Please find attached the City's comments on the upcoming reconsideration of the above referenced. Please feel free to contact me if you have any questions.

As to your question about whether any of the parcels LAFCo is considering for expanded annexation are serviced by water or sewer, I can not answer definitively. We recently conducted an assessment of water and sewer infrastructure and mapped all combinations of service. These parcels are not included in that data set, yet our water infrastructure is plumbed to Mr. Nielsen and Ms. McFarland's property. So I suspect that there are connections that are not included in our data.

In addition, you mentioned that one of the parcel owners claimed to have sewer service. That is also not included in our dataset. But there is a 12" sewer main on the north side of Foster. So it is entirely possible that there are connections we do not know about.

Regards,

David Loya (him)

Community Development Director

City of Arcata

p. 707-825-2045

www.cityofarcata.org



Creekside Homes/Ennes Park Reconsideration Hearing Letter

David Loya <dloya@cityofarcata.org>
To: Colette Metz <colettem@humboldtlafo.org>

Fri, Mar 12, 2021 at 10:48 AM

Hi Colette,

I wanted to clarify that my email was solely to inform you that we do not have verified confirmation of the connections in our data set. I trust that Mr. Danielson is connected, and I am aware that this has been stated in the record. Thanks for your due diligence in this matter.

I understand some constituents misunderstood the purpose of my email, and I wanted to make sure you understood my intent.

Sincerely,

David Loya (him)

Community Development Director

City of Arcata

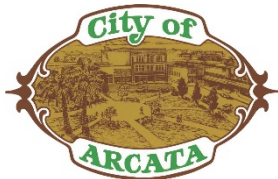
p. 707-825-2045

www.cityofarcata.org

Due to COVID 19, the City has implemented measures to limit in-person contact, including limiting work hours and access to City Hall to walk in business. City Hall is currently closed to walk-in service. We are accepting limited in-person appointments. Some services, such as water bills and police services, are available on-call. Please check our website www.cityofarcata.org for the latest information on accessing City services. *Please wear a mask to conduct any in person business.*

We still strive to provide the full range of city services by phone, email, and web-based services. We encourage you to conduct business remotely. Ask us how (707)822-5955.

Since this is an evolving situation, [please visit the City's COVID-19 website for updates.](#)



736 F Street
Arcata CA 95521

City Manager
707-822-5953

Community Development
707-822-5955

Environmental Services
Streets/Utilities
707-822-5957

Police
707-822-2428

Finance
707-822-5951

Environmental Services
Community Services
707-822-8184

Recreation
707-822-7091

Transportation
707-822-3775

Building & Engineering
707-825-2128

March 11, 2021

Humboldt LAFCo
ATTN: Colette Metz
1125 16th Street Suite 202
Arcata, CA 95521

RE: Creekside Homes/Ennes Park Annexation Reconsideration

Dear Colette,

I respectfully submit this letter outlining the City's continued objection to including the additional annexation parcels in the LAFCo final decision under reconsideration. I understand the LAFCo will take this matter up on March 17, 2021, and that a timely application for reconsideration was made by affected property owners of the additional annexation area. The City would like to ensure the LAFCo has the opportunity to review the City's position in greater detail.

In particular, the reconsideration application contests the annexation of Ennes Park. City staff could not find new or substantially different information on Ennes Park in the reconsideration application. Despite this lack of grounds for reconsideration, I address the body of policy and rationale for annexation of Ennes Park in this letter to ensure the LAFCo understands the body of policy supporting its annexation. The reconsideration application does not accurately address policy support for Ennes Park annexation, and inaccurately points to the wrong policy. This letter corrects the record for the LAFCo's consideration.

Furthermore, the City maintains its position that these additional lands should not be annexed. The balance of policy in this determination weighs more heavily on preservation of agricultural lands through avoiding annexation. I would offer the policy objectives of avoiding boundary islands in this instance is a lower priority, and that the subject lands will be subject to greater development pressure in the City than in the County.

The City's position on this matter was developed by the City Council's approval of the annexation. The City Council considered the referral comments from LAFCo and the County that were provided early in the project to include the additional parcels. After considering the request, and on the recommendation of the Planning Commission, the City approved the annexation area in the City's application. This letter explains why the housing project parcel and the Ennes Park parcel are suitable for annexation, while we believe the other parcels are not.

Consistency with City General Plan

The LAFCo authorizing legislation and Humboldt County LAFCo policy, Government Code 56668, and Humboldt LAFCo Policies Sec. 2.6, respectively, require annexations to consider consistency with the affected agency's General Plan. The annexation of the Ennes Park Expansion parcel and the Creekside

Homes parcel is consistent with the City's General Plan. Annexation of additional agricultural lands is deficient in General Plan support.

The project is subject to the Arcata General Plan, (particularly the Land Use, Open Space, Parks and Recreation, and Growth Management Elements) and the Land Use Code. The three distinct elements of the Project as proposed (the Creek Side Homes Development, the Foster Avenue Connection, and the expansion of Ennes Park) are all consistent with the intent of the City's planning efforts over almost a 50-year period, and this is supported by the evidence in the record when analyzed as a whole. These proposed amendments are consistent with other provisions of the General Plan including, but not limited to Land Use, Growth Management, and Recreation and Open Space policies.

General Plan Policy LU-6c provides several requirements designed to preserve agricultural uses on parcels designated Agriculture-Exclusive (AE). As described in the discussion on Policy GM-3c in the Draft and Final EIR, the Ennes Park expansion parcel has specific policy guidance in the Parks and Recreation Element, the Open Space Element, the Open Space Protection Program, the Parks and Recreation Master Plan, and nearly 50 years of history working towards developing a neighborhood park. This body of City policy clearly supports the annexation of Ennes Park Expansion parcel with mitigation for the change in land use to Public Facilities.

The proposed project will change the land use designation of the Ennes Park expansion parcel to PF. LU-6c relates to parcels designated AE. The administrative record on Ennes Park overwhelmingly supports this annexation and designation as PF and use as a park. LU-6c does not apply to the proposed project, including the Ennes Park expansion parcel. The housing project parcel was identified for annexation in the General Plan for the intended use. This parcel is clearly consistent with the Land Use policies.

Growth Management and the Housing Element - The project's annexation of the Ennes Park parcel and accompanying mitigations, including placing nearly 20 acres of agricultural lands outside the City under a conservation easement, also conforms with the Guiding Principles and Goals of the Growth Management Element, including: locating new urban development in areas contiguous to existing urban uses; protecting productive natural and agricultural lands from urban development; and managing the timing and amount of growth in accordance with the ability to maintain acceptable levels of service and quality of life for existing and new residents. The park expansion does not qualify as an "urban use", and any development of the park once it is annexed will be vetted through a public process.

The Growth Management and Housing Element both discuss the importance of limiting expansion into the resource lands surrounding the city limits and focusing on infill projects to satisfy housing needs. The Green Belt policy OS-1h is implemented both by the annexation of Ennes Park and by the conservation easement that will be established on the adjacent parcel, both of which will establish open spaces in perpetuity. As described in Section 4.4 (Agriculture and Forestry Resources) of the Draft EIR, the applicant and City of Arcata also propose to mitigate the conversion of parcel 505-151-009 to parkland through dedication of a conservation easement to the City of Arcata on parcel 505-151-001. The proposal to redesignate and prezone the property as Public Facility (PF) and develop it as parkland, is consistent with the City's and County's General Plan and the intended use for the property, and the project is not in conflict with any applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

General Plan Policy GM-3c, “criteria for annexation of undeveloped land areas”, includes factors that have not been adequately evaluated for the expanded annexation area. The fiscal impact has not been evaluated for the expanded parcels, and the compliance with the General Plan analysis has not been conducted. Ultimately, GM-3c does allow annexation of properties with Storie Index greater than 60 if they are zoned AE. As such, the annexation would be consistent with this policy, but development pressure may increase on these properties in the future since they would be substantially surrounded by urban development, have existing water service, and be within the City’s boundaries.

The City does support annexation in general for the purposes of open space and resource protection (Policy GM-2a). The City has several examples of annexations for these purposes (Arcata Community Forest, Sunnybrae Forest expansion, Jacoby Creek Forest). But these resource lands do not have the potential to support urban development. Whereas, greenfield ag lands, such as the additional annexation parcels, especially when supported by water and sewer, will be more attractive for urban growth.

Recreation and Open Space –The project proposes to annex into the City lands that have been planned for nearly 50 years for a neighborhood park. The General Plan identifies parks and other open spaces, including agricultural lands, as important meeting the objectives of protecting resource lands, providing recreation needs of the community, and the environment. The Ennes Park Expansion is identified in the Parks and Recreation Element as well as a variety of other current and historic documents. Pursuant to the Parks and Recreation Element Policy C, Implementation Measure 3.c, and Technical Appendix A to the Element (1994); the City of Arcata Open Space Protection Program and Acquisition Matrix (2004); the Parks and Recreation Master Plan (2010); and the Open Space Element policy OS-4a, Ennes Park must be designated and zoned Public Facilities (PF). In addition, the project conforms with the Open Space Element under policy OS-1g-l, as a means to establishing a greenbelt. This is also consistent with the City’s Western Greenbelt Plan, adopted by Resolution 178-18, under Strategy 3, “incorporate passive use parks, trails and wildlife areas into the matrix of open space lands”.

Policies OS-4a, OS-4c, and Parks and Recreation Element Policy C and its corresponding implementation measure 3.c are applicable to the Project. Policy OS-4a states that “all publicly held park lands and outdoor recreation areas are designated as Public Facility [PF] on the General Plan Land Use Element map [Figure LU-a]...” General Plan policy OS-4c explicitly links open space preservation with the Parks and Recreation Element objectives for a variety of recreational opportunities. The Parks and Recreation Element Policy C states that “additional parks will be needed in the....North of Bottom Road (Foster Avenue near Janes Creek)”. Appendix A of the Parks and Recreation Element, pages 4 and 17, identify the Ennes Park expansion as the Neighborhood Park considered under Policy C. Furthermore, the 2004 Open Space Protection Program, Appendix E, identified the Ennes Park expansion parcel as the four acres of parks in the Sphere of Influence (see Open Space Protection Program and Acquisition Matrix, Appendix E). The 2010 Parks and Recreation Master Plan Measure N-1 provides the most recent planning effort on the Park. The annexation and designation of the Ennes Park expansion parcel as “Public Facility” is consistent with the General Plan, and it is outlined in policy and detailed in various implementation measures.

Comments from Affected Local Agency

Section 3.12 of LAFCo Policies suggest the Commission must take comments of the affected agencies into consideration. Specifically, the “Commission shall give considerable weight” to agency comments.

The policy goes on to explain that conflicts between the applicant agency and affected district or agency shall resolve the conflict based on applicable laws and the “merits of the proposal”.

The County of Humboldt is the only affected agency that provided a counter proposal to the City’s annexation proposal. In its March 1, 2016, letter (attached), the County requested additional lands be annexed to encompass the entire length of Foster Avenue to Janes Road or that the City make improvements to Foster Avenue. This request was explicitly made to relieve the burden of road maintenance on Foster Avenue and address the current condition of the road and future use.

In considering this referral recommendation, the City evaluated its General Plan and guiding policy in other adopted plans. As discussed above, the City has strong growth management and open-space protection policies in its General Plan. These policies and the implementing laws and regulation adopted by the City were considered in explicitly rejecting the request by the County to expand its Annexation footprint.

The guiding principles in the General Plan, as adopted in the Land Use Code, outweigh the objective to reduce the road maintenance obligations of the County. The City’s Planning Commission and City Council specifically considered and rejected the annexation expansion on these policy grounds. The LAFCo should consider this in balancing policy objectives and resolving the affected agency conflict.

There are other means to addressing the County’s concerns than annexation. The County recognized as much in its March 2016 letter. The City and County could, for example, enter a road maintenance agreement, or the road could be improved with the Foster extension project. The City has plans for improvements to Foster Avenue associated with the annexation. This is an opportune time to invest in the road and develop an understanding of how the improvements will be maintained over time. The conflict resolution does not require annexation to resolve.

The City continues to oppose to the annexation expansion on the basis of our policy guidance.

Conclusion

Commission needs to balance policy to avoid creating islands substantially surrounded by a city (GC Sec. 56735(m)) and 56744) against policy to conform with City’s General Plan (GC Sec. 56375(a)(7)) and the Agricultural preservation policies (LAFCo Policy Sec 3.10, Sec. 5, & GC 56377). The additional annexation lands are in the City’s adopted greenbelt. This policy specifically maintains that greenbelts are effective at defining urban boundary limits (General Plan Policy OS-1h). The fact that some of these parcels are already connected to water and are alleged to be connected to sewer service adds to the potential for future development at higher densities with a zone change if they are included in the City limit.

Thank you for accepting this letter into the reconsideration record. The City appreciates the LAFCo considering this information in its reconsideration of the additional annexation parcels.

Sincerely,

A handwritten signature in blue ink, appearing to read "DAVID LOYA".

David Loya
Community Development Director



DEPARTMENT OF PUBLIC WORKS
C O U N T Y O F H U M B O L D T

MAILING ADDRESS: 1106 SECOND STREET, EUREKA, CA 95501-0579
AREA CODE 707

ARCATA-EUREKA AIRPORT TERMINAL
McKINLEYVILLE
FAX 839-3596

PUBLIC WORKS BUILDING
SECOND & L ST., EUREKA
FAX 445-7409

CLARK COMPLEX at Harris & H St.
3033 H Street, Room 17, EUREKA
FAX 445-7388

AVIATION 839-5401

ADMINISTRATION 445-7491
BUSINESS 445-7652
ENGINEERING 445-7377
FACILITY MAINTENANCE 445-7493

NATURAL RESOURCES 445-7741
NATURAL RESOURCES PLANNING 267-9540
PARKS 445-7651
ROADS & EQUIPMENT MAINTENANCE 445-7421

LAND USE 445-7205

03/01/2016

Ms. Alyson Hunter
City of Arcata
Community Development Department
736 "F" Street
Arcata, CA 95521

**RE: CITY OF ARCATA PROPOSED ANNEXATION
CREEKSIDE (DANCO) SUBDIVISION, APN 505-161-011**

Thank you for the opportunity to comment on the above project. The Department of Public Works previously provided comments on the Draft EIR for this project on September 22, 2006. The annexation does not appear to include the County maintained portions of Foster Avenue and Q Street. The Department supports the proposed annexation provided that it includes the annexation of a portion of Foster Avenue and the remainder of Q Street as shown on Exhibit "A".

In addition, the City of Arcata may wish to consider a more logical annexation area as shown on Exhibit "B". This includes APN 505-151-009 (City of Arcata) and an adjoining property APN 505-151-001 (Park Meadow Estates) which has the same tax mailing address as the subject property (APN 505-161-011). It also includes several properties south of Foster Avenue: APN 505-171-004 (Daniels/Niederbrach), 505-171-006 (Nielsen/McFarland), 505-162-009 (Armstrong/Pec-Crouse), and 505-162-002 (Armstrong/Pec-Crouse), as well as including a portion of Foster Avenue and the remainder of Q Street.

The Department will be requesting that LAFCO include those portions of Foster Avenue and Q Street so that the City will be able to mitigate the impacts caused by the subdivision to City standards without affecting any adjacent publicly maintained infrastructure. Should LAFCO not support including those portions of Foster Avenue and Q Street, the Department requests notification upon submittal of a tentative map for subdividing the land. The Department will require improvements to Foster Avenue and Q Street to mitigate the impacts that will be caused by the increase in traffic. The mitigation shall include, but is not limited to, widening of Foster Avenue and Q Street, along with shoulder and drainage improvements to County standards.

If you have any questions, please feel free to call me at 707.445.7205.

Sincerely,

Robert W. Bronkall, PE, LS
Deputy Director
Land Use Division
3033 "H" Street, Room 17
Eureka, CA 95501

c Tom Mattson, Director, Humboldt County Department of Public Works
Rob Wall, Director, Humboldt County Planning and Building Department
Michael Richardson, Supervising Planner, Humboldt County Planning and Building Department

Attachments:

- Exhibit "A"
- Exhibit "B"
- Letter from Humboldt County Public Works Department dated 09/22/2006

Annexation area including a portion of Foster Avenue and the remainder of Q Street



Annexation area including a portion of Foster Avenue and the remainder of Q Street



Above: Detail of Foster Avenue and Q Street

Annexation area including a portion of Foster Avenue and the remainder of Q Street; APN 505-151-009 (City of Arcata); APN 505-151-001 (Park Meadow Estates); APN 505-171-004 (Daniels/Niederbrach); 505-171-006 (Nielsen/McFarland); 505-162-009 (Armstrong/Pec-Crouse); and 505-162-002 (Armstrong/Pec-Crouse).





DEPARTMENT OF PUBLIC WORKS
COUNTY OF HUMBOLDT

MAILING ADDRESS: 1106 SECOND STREET, EUREKA, CA 95501-0579
AREA CODE 707/FAX 445-7409

ARCATA-EUREKA AIRPORT TERMINAL
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ADMINISTRATION 445-7491 NATURAL RESOURCES 445-7741
BUSINESS 445-7852 PARKS 445-7851
ENGINEERING 445-7377 ROADS & EQUIPMENT MAINT. 445-7421
ARCHITECT 445-7493

CLARK COMPLEX
HARRIS & H ST., EUREKA
LAND USE 445-7205

September 22, 2006

Mike Mullen
Planning Program Manager
City of Arcata
736 F Street
Arcata CA 95521

RE: DRAFT EIR FOR CREEK SIDE HOMES, APN 505-161-011

The Humboldt County Department of Public Works (Department) has reviewed the draft EIR for the above project. It appears that the EIR is being used by the City of Arcata (City) as a tool for determining any impacts to the City regarding the annexation and subdivision of APN 505-161-011. It does not appear that the EIR is being used for evaluating possible impacts to other public infrastructure, such as the County maintained portion of Foster Avenue outside of the boundaries of the annexation.

The annexation does not include the County maintained portion of Foster Avenue that shall serve the vehicular needs of the subdivision and that portion of the old railroad to be used for pedestrian purposes. No information was provided indicating whether the subdivision had rights to use the railroad right of way for pedestrian purposes or that the subdivision has right of access to cross the railroad.

This Department supports the proposed annexation. However, it is requested that the annexation be enlarged to include the railroad right of way and Foster Avenue fronting the subdivision. Upon the City's submittal for an annexation to LAFCO, this Department shall request that LAFCO include that portion of Foster Avenue proposed to be used as the primary access to the subdivision. The annexation would allow the City to mitigate all impacts caused by the subdivision to City standards without affecting any adjacent publicly maintained infrastructure.

Should LAFCO not support a request for additional lands (Foster Avenue and the portion of the railroad fronting the subdivision) to be added to the annexation, this Department requests notification upon submittal of a tentative map for subdividing the land. This Department shall request improvements to Foster Avenue to mitigate the impacts that shall be caused by the

1

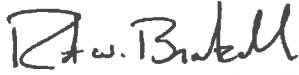
f:\pwrk\referrals\505-161-011_creek side annexation to the city of arcata.doc

u:\pwrk_landdevprojects\referrals\505-161-011_creek side annexation to the city of arcata 2016-03-01.docx

increase of the additional 1,500 cars per day. The mitigation shall include developing Foster Avenue to City standards.

If you have any questions, please feel free to call me at 707.445.7205.

Sincerely,



Robert W. Bronkall, PE, LS
Associate Engineer
Land Use Division
3033 "H" Street, Room 17
Eureka, CA 95501

c Tom Mattson, Director, Humboldt County Department of Public Works
Kirk Girard and Steve Werner
Humboldt County Community Development Services Dept

EXCERPTS FROM

The Creekside Annexation Project

Final Environmental Impact Report

Lead Agency:

City of Arcata Community Development Department

State Clearinghouse # 2016022083

October 17, 2019

Master Response 2: Conversion of Prime Agricultural Land

Several comments on the Draft EIR addressed the proposed Ennes Park expansion. The concerns raised by commenters are: 1) the property supports prime agricultural soils and the re-designation and rezone would permanently convert the property from agricultural uses to other uses; 2) the annexation is inconsistent with General Plan Policies, including GM-3c; and 3) the EIR does not evaluate potential buildout for the Ennes Park expansion property.

Permanent Conversion

The Draft EIR analyzed the permanent conversion of agricultural lands that would result from the Ennes Park expansion and the development of the emergency access road. The Draft EIR describes the action with respect to Ennes Park as an annexation, re-designation, and rezone to Public Facilities (PF). This action is described on pages 1-12 to -13, Figure 1E, Figure 1H, as well as in a series of other tables in the introduction. The Draft EIR evaluates the impacts with respect to land use and planning (Chapter 2.1) and agricultural and forestry resources (Chapter 4.3). The Draft EIR evaluated the environmental impact of the annexation and rezone of the full area of Ennes Park and the emergency egress, which would result in the permanent conversion of prime agricultural soils.

The Draft EIR includes a conservation easement as mitigation that reduces the environmental impact of the conversion to less than significant. The Draft EIR disclosed that the proposed project will convert 5.03 acres of Agricultural-Exclusive (AE) lands to other uses. To mitigate the conversion, the Draft EIR proposes a conservation easement on the adjacent AE zoned property (APN 505-151-001) at a ratio of 4.5:1. As described in Section 4.4 of the Draft EIR, conservation easements are a common and accepted mitigation under CEQA for agricultural land conversion. Furthermore, the Draft EIR discloses that the proposed mitigation ratio is greater than twice the typical ratio, with reference to Yolo County's mitigation program.

The CEQA Guidelines establish the duty to minimize environmental damage and balance competing public objectives (CEQA Guidelines Section 15021). The City, as the Lead Agency under CEQA, has the authority to exercise discretion regarding the environmental protection and, within limits established by case law, incorporation of mitigation to substantially lessen or avoid impacts (CEQA Guidelines Sections 15040 and 15041). The Draft EIR establishes the conversion is an impact and identifies mitigation to reduce the impact to less than significant within its discretionary authority.

The comments addressing the conversion do not represent new information that was not disclosed in the Draft EIR, nor are any new environmental impacts or mitigation measures required to reduce environmental impacts identified by these comments. No environmental issues or a deficiency in the Draft EIR's analysis of environmental impacts were raised by the comment; therefore, no further response is necessary. The comment is noted for the record and will be provided to the City of Arcata Planning Commission and City Council for further consideration as part of the deliberative process.

General Plan Consistency

The Draft EIR considered the proposed action against relevant policy in Chapters 2.1 and 4.4 of the Draft EIR (Land Use and Planning and Agriculture and Forestry Resources, respectively). These sections, along with the relevant sections summarizing these sections in Chapter 1 of the Draft EIR, evaluated the impact on the environment and made findings for the proposed action. Comments received suggested that additional sections not listed in the Draft EIR are also relevant to the discussion. The commenters conclude that the proposed Ennes Park annexation is not consistent with those policies.

The Ennes Park annexation has been planned for decades. The City owned property, which was purchased in 1971 for development of a neighborhood park, is currently located in the County of Humboldt. The County recently re-designated the parcel to Public Facilities at the City's request. The County is currently processing a zoning amendment to change the zoning the Public Facilities. The property is designated Agricultural Exclusive (AE) in the City's General Plan (Figure LU-a). However, several past and current long-range planning documents have continued to identify the property as a neighborhood park (e.g., the 1975 General Plan, the 1978 Parks and Recreation Master Plan, the 2010 Parks and Recreation Master Plan, and the Parks and Recreation Element of the General Plan). In anticipation of the impending annexation of Ennes Park and McDaniel Slough restoration area, the City adopted Land Use Code (Code) Section 9.94.070, which expanded the allowable land use and zoning designations of prime ag-land conversions to include Public Facilities (PF) and Natural Resources (NR) zoning. The planned annexation and expansion of Ennes Park as a neighborhood park is well documented and readily available in the record when viewed as whole.

The CEQA Guidelines Checklist in Appendix G seeks to answer whether the proposal would "conflict with any *applicable* land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect" [emphasis added]. Staff limited discussion of General Plan conformance to those policies found to be applicable to the proposed project. Policy areas that were included in multiple General Plan Elements were not evaluated separately for brevity. As such, the commenter raised several policies that were evaluated explicitly in the Draft EIR and several that were not specifically called out.

The following discussion identifies the policies raised in comment letters and addresses responses to each issue the commenters raised. In addition, the discussion notes where a policy raised by commenters was identified in the General Plan EIR as avoiding or mitigating an environmental impact.

Growth Management Policies

Goal B. Preserve rural character and promote resource protection in the Planning Area.

The project proposes to annex parklands into the City lands have been planned for nearly 50 years for use as a neighborhood park. The General Plan identifies parks and other open spaces, including agricultural lands, as important elements in meeting the objectives of protecting resource lands and the environment, and providing for the recreation needs of the community. The Ennes Park Expansion is identified in the most recently adopted Parks and Recreation Element as a future parkland site. The Green Belt policy OS-1h is implemented both by the annexation of Ennes Park and by the conservation easement that will be established on the adjacent parcel, both of which will establish open spaces in perpetuity. As such, the proposed annexation does preserve rural character and promotes resource protection. This goal was not explicitly evaluated, since the project comports with this goal. The CEQA Guidelines Checklist in Appendix G requires the Lead Agency to address conflicts with policy, not compartments with policy. As such, this item was not addressed in the Draft EIR. No further action is required. The concern will be relayed to the City Council prior to their discretionary decision on the matter.

Goal F. Incorporate greenbelts, designated natural areas, and other open space into the planning area and Sphere of Influence in order to maintain an identity separate from surrounding communities.

The project proposes to annex a park, which conforms with the Open Space Element under policy OS-1g-I, as a means to establishing a greenbelt. This is also consistent with the City's Western Greenbelt Plan, adopted by Resolution 178-18, under Strategy 3: "incorporate passive use parks, trails and wildlife areas

into the matrix of open space lands”. The proposed annexation implements Goal F of the Growth Management Element. This goal was not explicitly evaluated since the project comports with this goal. The CEQA Guidelines Checklist in Appendix G requires the Lead Agency to address conflicts with policy, not comports with policy. As such, this item was not addressed in the Draft EIR. No further action is required. The concern will be relayed to the City Council prior to their discretionary decision on the matter.

Goal G. Manage timing and amount of growth in accordance with the ability to maintain acceptable levels of service and quality of life for existing and new residents.

The Draft EIR evaluated the fiscal impact of the proposed annexation as well as the need for additional park facilities associated with the housing project. The Draft EIR documents that the Creek Side housing project, which was first evaluated in the General Plan PEIR, is timed appropriately, includes mitigation to address infrastructure and other public services. This goal was not explicitly evaluated since the project comports with this goal. The CEQA Guidelines Checklist in Appendix G requires the Lead Agency to address conflicts with policy, not comports with policy. As such, this item was not addressed in the Draft EIR. No further action is required. The concern will be relayed to the City Council prior to their discretionary decision on the matter.

GM1c. Land-use designations within the Planning Area.

GM-1c states that the City will request rural and agricultural land use designations of the County on lands within the City’s Planning Area. The proposal includes annexing the lands into the City. Those lands would no longer be subject to the County’s land use designations. This policy does not apply to the proposed project, including the Ennes Park expansion parcel. The CEQA Guidelines Checklist in Appendix G requires the Lead Agency to address conflicts with policy. This policy is not relevant to the decision before the City. As such, this item was not addressed in the Draft EIR. No further action is required. The concern will be relayed to the City Council prior to their discretionary decision on the matter.

GM-1d. Greenbelt.

This policy states that lands within the greenbelt or used as open space shall not be developed with “urban” densities or uses and that land uses shall be limited to agricultural production and natural resource conservation. “Urban” is defined in the General Plan as *“Of, relating to, characteristic of, or constituting a city. Urban areas are generally characterized by moderate and higher density residential development (i.e., three or more dwelling units per acre), commercial development, and industrial development, and the availability of public services required for that development, specifically central water and sewer, an extensive road network, public transit, and other such services (e.g., safety and emergency response). Development not providing such services may be “non-urban” or “rural”. CEQA defines “urbanized area” as an area that has a population density of at least 1,000 persons per square mile.”* The General Plan also defined “Urban Land Use” as *“residential, commercial, or industrial land use in areas where urban services are available”*. This definition does not apply to Ennes Park, which, although the exact programming has yet to be determined, will not feature residential, commercial, or industrial uses. Ennes Park is therefore, according to the General Plan’s intent, more closely aligned with rural and open space uses.

As discussed above in the sections on Goals B and F, the proposed project implements the greenbelt policies. Open Space Element policy OS-1e identifies appropriate uses and development limitations within open space lands, including interpretive and recreational use. The Open Space Element identifies open spaces as natural resources. The 2004 Open Space Protection Program identifies the Ennes Park expansion parcel as protected open space. It also identifies it as a City park in the sphere of influence.

The ownership, annexation, and designation for park is consistent with the City's Greenbelt policy.

The project implements the City's greenbelt policy and program as adopted by Resolution 178-18, establishing recreational open space within the City's identified western greenbelt. The CEQA Guidelines Checklist in Appendix G requires the Lead Agency to address conflicts with policy, not comportments with policy. As such, this item was not addressed in the Draft EIR. No further action is required. The concern will be relayed to the City Council prior to their discretionary decision on the matter.

GM-2e. Prezoning parcels within the Sphere of Influence.

This policy indicates that lands will not be prezoned prior to consideration for annexation. The policy identifies that prezoning would be consistent with the land use designations on Figures LU-a and LU-b, or a General Plan amendment would be required. The proposed project includes required General Plan amendments. The Draft EIR has been updated in several places through this Final EIR to explicitly identify the General Plan amendments that will be required to annex Ennes Park expansion parcel and zone it PF.

Changes have been made as listed above in Chapter 2.0 (Revision to the Draft EIR) of this Final EIR, which discusses the amendments to the General Plan that the proposed project would require. The text revisions provide additional clarification pertaining to the analysis in the Draft EIR and do not constitute "significant new information" in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15088.5. Thus, the Draft EIR does not require recirculation. The concern will be relayed to the City Council prior to their discretionary decision on the matter.

GM-2f. County Land-use designations and Zoning designations in Sphere of Influence.

This policy requires the City to request Humboldt County adopt agricultural, natural resource, or other rural land use designations in the Sphere of Influence. The proposal includes annexing the lands into the City. Those lands would no longer be subject to the County's land use designations or zoning requirements. This policy does not apply to the proposed project, including the Ennes Park expansion parcel. The CEQA Guidelines Checklist in Appendix G requires the Lead Agency to address conflicts with policy. This policy is not relevant to the decision before the City. As such, this item was not addressed in the Draft EIR. No further action is required. The concern will be relayed to the City Council prior to their discretionary decision on the matter.

GM-3c.6. Criteria for annexation of undeveloped land areas.

GM-3c states, in part, that all undeveloped prime agricultural lands shall be added to the City only if the lands are zoned Agriculture Exclusive (AE). GM-3c does not apply to the Ennes Park expansion property. Ennes Park was purchased for the purpose of developing a neighborhood park in 1971 and there is a consistent 50 year history available in the record identifying the Ennes Park expansion for park purposes with several policy, planning, and implementation documents adopted by the City supporting its designation as a park with Public Facilities (PF) zoning. Importantly, the General Plan Parks and Recreation Element identifies the Ennes Park expansion parcel as a neighborhood park. The determination of both the Zoning Administrator and City legal counsel is that the policy specificity for this parcel supersedes the general policy established in GM-3c. GM-3c applies to annexations of properties that do not have other more specific policies in the General Plan.

There are several other General Plan policies that apply to the Ennes Park annexation. Policies OS-4a, OS-4c, and Parks and Recreation Element Policy C and its corresponding implementation measure 3.c are applicable to the annexation of this property. Policy OS-4a states that "all publicly held park lands

and outdoor recreation areas are designated as Public Facility [PF] on the General Plan Land Use Element map [Figure LU-a]...” General Plan policy OS-4c explicitly links open space preservation with the Parks and Recreation Element objectives for a variety of recreational opportunities. The Parks and Recreation Element Policy C states that “additional parks will be needed in the....North of Bottom Road (Foster Avenue near Janes Creek)”. And Parks and Recreation Element, Appendix A, pages 4 and 17 identify the Ennes Park expansion as the Neighborhood Park considered under Policy C. Furthermore, the 2004 Open Space Protection Program, Appendix E, identified the Ennes Park expansion parcel as the four acres of parks in the Sphere of Influence (see Appendix E and E3). The 2010 Parks and Recreation Master Plan Measure N-1 provides the most recent planning effort on the Park. In summary, the annexation and designation of the Ennes Park expansion parcel as PF is not only consistent with the General Plan, it is outlined in policy and detailed in various implementation measures.

The CEQA Guidelines Checklist in Appendix G seek to answer whether the proposal would, “conflict with any *applicable* land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect” [emphasis added]. Since the proposed annexation is consistent with these policies, the Draft EIR did not consider them in detail, or in some cases at all. Notwithstanding, Chapter 2 of this Final EIR adds clarifying language on the findings for policy consistency for annexation found in Chapter 2.1 of the Draft EIR. The overwhelming evidence in the record supports the City’s annexation of Ennes Park expansion parcel and its inclusion into the City’s network of parks. Therefore, no conflict in policy exists and no new impacts identified by these comments and no new mitigation measures result from the change. No further action is required. The concern will be relayed to the City Council prior to their discretionary decision on the matter.

Land Use Policies

LU-6c Protection of agricultural lands and uses within the City

LU-6c provides several requirements designed to preserve agricultural uses on parcels designated AE. The Draft EIR identified consistency with Policy LU-6c in Table 4.4-3, on page 4.4-8, and in Finding 4.4.1. As described in the discussion on Policy GM-3c, the Ennes Park expansion parcel has specific policy guidance in the Parks and Recreation Element, the Open Space Element, the Open Space Protection Program, the Parks and Recreation Master Plan, and nearly 50 years of history working towards developing a neighborhood park.

The proposed project will change the land use designation to Public Facility (PF). LU-6c relates to parcels designated AE. The administrative record on Ennes Park overwhelmingly supports this annexation and designation as PF and use as a park. This policy does not apply to the proposed project, including the Ennes Park expansion parcel. The CEQA Guidelines Checklist in Appendix G requires the Lead Agency to address conflicts with policy. This policy is not relevant to the decision before the City. As such, this item was not addressed in the Draft EIR. No further action is required. The concern will be relayed to the City Council prior to their discretionary decision on the matter.

Master Response 3: Soil Contamination and Related Public Health Concerns

Multiple commenters noted previous contamination at the site and from previous logging operations, and expressed concern that the Draft EIR does not contain adequate mitigations to prevent exposure to contamination and does not contain a plan for soil removal and cleanup of remaining onsite soil contamination.



we support our Arcata Bottom neighbors who DO NOT WISH TO BE ANNEXED

Dave Hollowell <dave.hollowell@yahoo.com>

Fri, Feb 19, 2021 at 1:59 PM

To: Mike.Wilson@co.humboldt.ca.us

Cc: kdiemer@cityofarcata.org, georgew@planwestpartners.com, colettem@humboldtlafo.org, SPereira@cityofarcata.org, BWatson@cityofarcata.org, SATkinsSalazar@cityofarcata.org, EGoldstein@cityofarcata.org, SSchaefer@cityofarcata.org

Hello to all,

I would like to start with how dissatisfied I am with the city of Arcata, it has come to my attention that the land on 17th street that has been an

agriculture field for over the past 20 years is up to be annexed and built upon.

With NO NOTICE to the neighbors who border this piece of land.

As someone who grew up on Iverson Ave and recently just purchased a home on the same block the main neighborhood bordering this piece of

Land. It leaves a very sour taste in my mouth that the city has not reached out to the main people who occupy and live in this neighborhood.

There has been no outreach or communication with its residence regarding this issue.

The MAIN issue being if we would even like to have this land developed right next to our current neighborhood.

I strongly oppose developing this land into homes of any kind, you are truly taking away from the charm of our neighborhood.

I would urge the city to do a better job of communicating with its residence because as of now there has been no communication to the population

that this would be effecting.

Sincerely,

David Hollowell



NO ANNEX IN ARCATA BOTTOMS

Kate Breyer

Fri, Feb 19, 2021 at 2:10 PM

To: georgew@planwestpartners.com, colettem@humboldtlafo.org, krystleh@humboldtlafo.org,
mike.wilson@co.humboldt.ca.us

Hello,

I support my Arcata Bottoms neighbors who DO NOT WISH TO BE ANNEXED.

Thank you,
Katie Breyer



FW: NO to ANNEXATION

georgew@humboldtlafo.org <georgew@humboldtlafo.org>
To: Colette Metz <colettem@humboldtlafo.org>

From: cindy shaw <cindyshaw7@gmail.com>
Sent: Friday, February 19, 2021 2:40 PM
To: georgew@planwestpartners.com
Subject: re: NO to ANNEXATION

We support our Arcata Bottom neighbors who DO NOT WISH TO BE ANNEXED!

Cindy Shaw

[1836 Iverson Ave](#)

[Arcata](#)



Pasture Annexation

FFFerguson

Fri, Feb 19, 2021 at 3:42 PM

To: SPereira@cityofarcata.org, BWatson@cityofarcata.org, SAtkinsSalazar@cityofarcata.org, EGoldstein@cityofarcata.org, SSchaefer@cityofarcata.org, georgew@planwestpartners.com, colettem@humboldtlafo.org, krystleh@humboldtlafo.org, Mike.Wilson@co.humboldt.ca.us

Cc: Carol McFarland

Dear Arcata City Council Members, LAFCO Board Members and Supervisor Mike Wilson:

We are home owners at 1621 R Street in Arcata. We live at the corner of "R" and Iverson. Our back yard abuts a pasture within the area proposed for annexation to Arcata. We have learned about the annexation belatedly through a couple of neighbors whose properties are being involuntarily annexed. We and the neighbors we have talked to on Iverson have received no notice about the proposed annexation although it would greatly impact our properties. We have many questions and do not support the conversion of county agricultural land, protected under the county general plan, to a possible subdivision. We support the objections of our neighbors within the annexation area as they have apparently been given no say in the matter. We ask for a public hearing and a more transparent public process before a decision about annexation is made. If the decision has already been made, we ask that it be reconsidered.

Thank you. We look forward to a response.

Frances E. Ferguson

Francis D. Ferguson



Arcata Bottom Annexation

Matthew Cook

Wed, Mar 10, 2021 at 5:43 AM

Cc: georgew@planwestpartners.com, colettem@humboldtlafo.org, krystleh@humboldtlafo.org, kdeimer@cityofarcata.org, spereira@cityofarcata.org, bwatson@cityofarcata.org, satkinssalazar@cityofarcata.org, egoldstein@cityofarcata.org, sschaefer@cityofarcata.org, mike.wilson@co.humboldt.ca.us

Dear members of the Council, Lafco and Supervisor Wilson,

I am writing to oppose the annexation of 75 acres of working farmland into the City of Arcata. The owners of this land do not wish to be annexed and the neighbors of this land do not want it to be annexed. The fact that this was accomplished without notifying the neighbors is appalling and the process needs thorough review after the annexation is denied.

Best regards,

Matthew Cook, Arcata resident.



RESOLUTION NO. 21-05

**MAKING DETERMINATIONS AND APPROVING THE REQUEST FOR
RECONSIDERATION FOR THE CREEKSIDE HOMES ANNEXATION TO THE
CITY OF ARCATA, WITH AMENDMENT AND CONDITIONS, AND
RESCISSION OF PRIOR RESOLUTION NO. 21-01**

WHEREAS, the Humboldt Local Agency Formation Commission, hereinafter referred to as the "Commission," is responsible for regulating boundary changes affecting cities and special districts pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the City of Arcata, hereinafter referred to as "City", filed an application with the Commission by resolution of application (Resolution No. 190-39) for initiation of annexation proceedings for 21.6 acres (four parcels) adjacent to the Western edge of the City boundary and within its sphere of influence in order to accommodate the Creekside Homes subdivision and Ennes Park expansion; and

WHEREAS, the City Annexation proposal represents 100 percent consent of all landowners within the subject territory, is uninhabited as defined in GC §56079.5, and conforms to the adopted Sphere of Influence for the City of Arcata; and

WHEREAS, upon consideration of the application and referral comments from affected agencies, LAFCo staff evaluated a modified annexation boundary consisting of 76.7 acres (additional five parcels) that would create a more logical boundary for the City; and

WHEREAS, on January 20, 2021, the Commission conducted a noticed public hearing on the proposal known as the Creekside Homes Annexation, where it considered all evidence presented, including the Executive Officer's report, factors required by law under GC §56668, and public comments received; and

WHEREAS, on January 20, 2021, the Commission, as responsible agency, certified the City's Final Environmental Impact Report (FEIR), Findings of Fact, and Statement of Overriding Considerations, in addition to the LAFCo Addendum to the FEIR which considered impacts of a modified annexation boundary; and

WHEREAS, on January 20, 2021, the Commission, after taking into consideration all evidence provided during the public hearing, did adopt Resolution 21-01 approving the Modified Creekside Annexation; and

WHEREAS, within 30 days of the date of adoption of Resolution 21-01, a request for reconsideration of said resolution was filed in conformance with GC §56895; and

WHEREAS, at the time and in the form and manner provided by law, the Executive Officer gave notice of a public hearing for the reconsideration request; and

WHEREAS, on March 17, 2021, the Commission held a public hearing and heard from all parties wishing to be heard on this reconsideration; and

WHEREAS, on March 17, 2021, the Commission determined to rescind Resolution 21-01 and approve the request for reconsideration with amendments and conditions.

NOW, THEREFORE, BE IT RESOLVED by the Humboldt Local Agency Formation Commission as follows:

1. The Commission rescinds Resolution 21-01, adopted January 20, 2021, in its entirety and is replaced, revised and supplemented by this resolution.
2. The Commission's determinations on the proposal incorporate and adopt the information and analysis provided in the Executive Officer's written report.
3. The Commission, as Responsible Agency, hereby certifies it has independently reviewed and considered the Draft and Final Environmental Impact Report as well as the CEQA Findings of Fact and Statement of Overriding Considerations prepared by the City in addition to the Addendum prepared by the Commission which analyzed the modified annexation boundary and finds that the mitigation measures proposed are adequate to mitigate the impacts of the project as proposed by the City.
4. The Commission approves the reconsideration request with the following amendment:
 - a) All parcels originally proposed by the City will be included within the Creekside annexation boundary.
5. The Commission approves the proposal of the City to annex 21.6 acres of land, contingent upon satisfaction of the following terms and conditions as determined by the Executive Officer:
 - (a) Submittal of a final map and geographic description of the affected territory conforming to the requirements of the State Board of Equalization.
 - (b) The City of Arcata shall consult with the Humboldt County Department of Public Works to develop a Memorandum of Understanding that identifies mutually agreeable terms for road maintenance and/or future improvements of Foster Avenue from the annexation boundary to Janes Road.
 - (c) The City of Arcata shall consult with Humboldt County (acting on behalf of the Janes Creek Storm Drainage District Board) and Humboldt LAFCo to evaluate reorganization options for the Janes Creek Storm Drainage District.
 - (d) Payment of any outstanding fees as identified in the Commission's adopted fee schedule for the annexation by the City.
6. The Commission waives conducting authority (protest) proceedings in accordance with Government Code Section 56662 given the affected territory is

uninhabited, all landowners have provided their written consent, and no written opposition to a waiver of protest proceedings has been received by an affected local agency.

7. The proposal is assigned the following distinctive short-term designation:

Creekside Homes Annexation to the City of Arcata; 21-05

8. The effective date shall be the date of recordation of the Certificate of Completion. The Certificate of Completion must be filed within one calendar year from the date of approval unless a time extension is approved by the Commission.
9. Upon effective date of the proposal, the affected territory will be subject to all previously authorized charges, fees, assessments, and taxes that were lawfully enacted by the City of Arcata. The affected territory will also be subject to all of the rates, rules, regulations, and ordinances of the City of Arcata.
10. The proposal is subject to a master property tax exchange agreement adopted by the City of Arcata and the County of Humboldt in 1980; an agreement specifying the City of Arcata shall receive 36.36 percent of Humboldt County's existing portion of property tax revenues generated from the affected territory.

PASSED AND ADOPTED at a meeting of the Humboldt Local Agency Formation Commission on the 17th day of March 2021, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Virginia Bass, Chair
Humboldt LAFCo

Attest:

Colette Santsche, Executive Officer
Humboldt LAFCo