

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

Table 4-2 - Animal Keeping Standards			
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,

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





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



Sean Armstrong

Fwd: Farmland Annexation

Karen Davidson

To: Sean Armstrong

, Tule Fog Farm

Carol McFarland

, Monica Coyne

Thu, Feb 18, 2021 at 7:55 PM

NIELSEN Don

"Lisa B."

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

From: **Karen Davidson**

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

Gmail - Fwd: Farmland Annexation

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

February 17, 2021

MEMORANDUM

TO LAFCo Board Members and Staff

FROM Carol A. McFarland, Homeowner,

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.



Krystle Heaney <krystleh@humboldtlafo.org>

Pasture Annexation

FFFerguson <fferguson@reninet.com>

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, collettem@humboldtlafo.org, krystleh@humboldtlafo.org, Mike.Wilson@co.humboldt.ca.us

Cc:

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

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

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 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.*

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



Sean Armstrong

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, , 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.