

MEMORANDUM LOCAL AGENCY FORMATION COMMISSION

TO: Local Agency Formation Commission

FROM: Stephen Lucas, Executive Officer

SUBJECT: ***LAFCo File 18-02 – City of Chico – Esplanade Annexation No. 29***
(Continued open from the Commission's September 7, 2017 meeting)

DATE: September 28, 2017 for the meeting of October 5, 2017

At its September 7, 2017, meeting, the Commission considered the Esplanade Annexation No. 29, reviewed the staff report, received a staff presentation and accepted public comments. Based on questions and concerns raised at this meeting, the Commission continued the item for 30 days.

Meeting Summary

The following is the summary of comments provided by the applicant, affected landowners and the Commissioners.

- City of Chico representatives indicated they supported the staff recommendation and requested the Commission approve the project. The City argues the annexation is consistent with their sphere of influence, makes logical sense for the extension of municipal services and will allow an existing City business to remain within City jurisdiction. They acknowledge the business, an auto dealership (Courtesy Motors), is a significant sales tax generator that is vitally important to the City's overall financial picture. The City argues the annexation is a part of an overall annexation program that also included many islands over the years and the pending Chapman Mulberry Island annexation to be executed on July 1, 2020.
- The owner of Down Range Sports Indoor Training Center and Code Red Coffee (13407 Garner Lane) indicated he would like to be included in the annexation proposal in order to access City services in the future.
- The owner of Courtesy Motors and his representative fully support the annexation and requested the Commission not delay action to approve the annexation.
- The Commission's two Board of Supervisors members indicated their strong concerns about the inequity in the current tax sharing arrangement under the Municipal Affairs Agreement between the County and City. They believe the County has consistently opted to allow new revenue generating developments to be directed to, or be annexed by, the incorporated cities in order to access municipal services and encourage good planning. While this cooperative approach represents good land use planning, it has never resolved the loss of revenue to the County. In this case, it is reported the auto dealership generates approximately \$400,000 in annual sales tax, 95% of which will go to the City and 5% to the County.

- Several Commissioners voiced concerns related to the perceived "cherry-picking" by the City, whereby the City is viewed as very motivated to annex revenue producing commercial/industrial parcels and far less motivated to annex existing residential islands and other residential areas where the cost of services provided exceed the revenue generated. The oft cited example is the Chapman-Mulberry residential islands that the City actively resisted annexing for years and only agreed to annex following several years of negotiations and legal wrangling. It was suggested that the City be required to expedite the Chapman-Mulberry island annexation and perhaps other infill areas in order to annex new development.

New Developments

- The County Board of Supervisors (BOS) directed its staff to review the current Municipal Affairs Agreement with the City of Chico to determine what options, if any, the County has to renegotiate or cancel the Agreement in order to seek greater revenue neutrality. At its September 26, 2017, meeting the BOS received an update from its staff that indicated the County cannot unilaterally withdraw from the Agreement. Any future tax sharing considerations would need to happen cooperatively with the City. The BOS took no additional actions nor did it direct its staff to provide any additional comments to LAFCO.

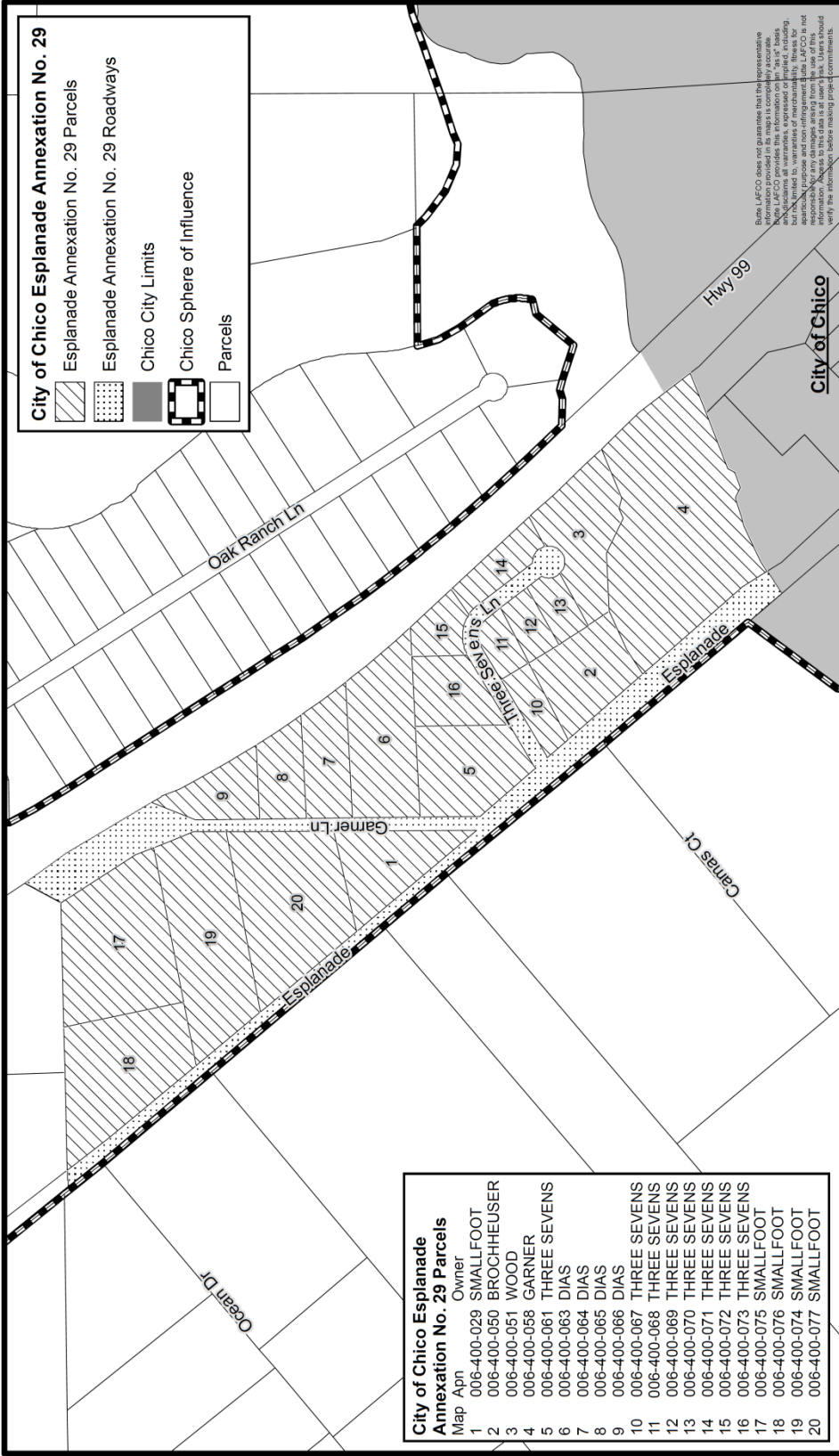
Staff Comments

- Given the absence of any formal requests from the County or other persons to modify, condition or reject the annexation proposal, Staff recommends the Commission approve the proposal as submitted with the inclusion of Down Range Sports Indoor Training Center and Code Red Coffee (13407 Garner Lane).
- Given Commissioner concerns over the City's perceived "cherry-picking" of revenue positive parcels and reluctance to annex existing developed residential parcels, the Commission should consider notifying the City of this concern and request the City to actively pursue the annexation of all island areas and other contiguous lands that are developed without the benefit of full municipal services.
- Given Commissioner concerns related to arguably inequitable revenue sharing agreements (primarily sales tax revenue) resulting from the County's unrewarded efforts to direct new development to areas within existing city spheres of influence, the Commission could initiate revenue sharing discussions (through its staff) between the county and its five incorporated cities.

Actions Requested:

1. Open public hearing and accept comments.
2. Adopt Resolution 04 2017/18 (***Exhibit B***) approving the annexation.
3. Provide any direction to staff for further actions.

- Exhibits:
1. Annexation Area Map
 2. Draft Resolution No. 03 2017/18



City of Chico Esplanade Annexation No. 29

0 300 600 900 Feet

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Data: Butte County, LAFCO

Butte Local Agency Formation Commission

City of Chico Esplanade Annexation No. 29

Date: September 7, 2017 @ 9:00 a.m.

File: 18-02

Map Apt	Owner
1	006-400-029 SMALLFOOT
2	006-400-050 BROCHHEUSER
3	006-400-051 WOOD
4	006-400-058 GARNER
5	006-400-061 THREE SEVENS
6	006-400-063 DIAS
7	006-400-064 DIAS
8	006-400-065 DIAS
9	006-400-066 DIAS
10	006-400-067 THREE SEVENS
11	006-400-068 THREE SEVENS
12	006-400-069 THREE SEVENS
13	006-400-070 THREE SEVENS
14	006-400-071 THREE SEVENS
15	006-400-072 THREE SEVENS
16	006-400-073 THREE SEVENS
17	006-400-075 SMALLFOOT
18	006-400-076 SMALLFOOT
19	006-400-074 SMALLFOOT
20	006-400-077 SMALLFOOT

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Applicant: City of Chico

DRAFT

RESOLUTION NO. 04 2017/18

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF BUTTE
MAKING DETERMINATIONS AND ORDERING THE ANNEXATION OF
TERRITORY DESIGNATED AS 18-02
CITY OF CHICO
ESPLANADE ANNEXATION NO. 29**

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

WHEREAS, a proposal for the annexation of certain territory to the City of Chico in the County of Butte was heretofore filed by the City of Chico and accepted for filing on August 14, 2017, by the Executive Officer of this Local Agency Formation Commission pursuant to Title 5, Division 3, commencing with Section 56000 of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658, set September 7, 2017, as the hearing date on this proposal and gave the required notice of public hearing; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665, has reviewed this proposal and prepared a report, including recommendations thereon, and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the owners of Assessor’s Parcel Number 006-400-059 (13407 Garner Lane) requested in writing that this parcel be added to the City of Chico’s annexation proposal, and;

WHEREAS, this Commission called for and held public hearings on September 7, and October 5, 2017, at which the Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, this Commission considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, factors specified in Government Code Section 56668; and

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

- Section 1.** Environmental Findings:
 - A. The City of Chico, acting as “Lead Agency”, determined that the proposal is Categorically Exempt from the California Environmental Quality Act under CEQA Guidelines Section 15162 – Subsequent EIRs and Negative Declarations.
 - B. As a “Responsible Agency” under CEQA Guidelines, prior to approving the proposed annexation, the Commission is required to consider the

information in the Categorical Exemption for the project on which the Lead Agency based its Finding of Exemption.

- C. Acting as a “Responsible Agency” under CEQA Guidelines, the Commission has considered the lead agency's categorical exemption for this project and has made no determination that would require supplementing that environmental document.
- D. The Commission finds that the annexation of APN 006-400-059 (13407 Garner Lane) is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) – General Rule Exemption.

Section 2. General Findings and Determinations:

- A. The Commission has considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, Butte LAFCo Policies and Procedures, Sphere of Influence and General Plan consistency, the City of Chico Municipal Service Review, the Domestic Water and Wastewater Service Providers Municipal Service Review, and other factors specified in Government Code Section 56668 and as described in the staff report dated August 29, 2017, for the meeting of September 7, 2017 and the staff memorandum dated September 28, 2017 for the meeting of October 5, 2017.
- B. The annexation area shall consist of twenty-one (21) parcels and the adjoining road right-of-ways, totaling approximately 67.8 acres, as submitted by the City of Chico and as amended by the Commission, and described in Exhibit “A.”
- C. The subject area is found to be uninhabited, and is assigned the following short form designation: 18-02 – City of Chico – Esplanade Annexation No. 29.
- D. The purpose of the annexation to the City of Chico is to support orderly jurisdictional boundaries and allow for the provision of City of Chico municipal services for existing and future commercial and industrial development within the territory.
- E. The proposal is consistent with the City of Chico Sphere of Influence.
- F. Pursuant to Butte LAFCO Policy 2.13.1, the Commission determines that agricultural and/or open space lands will not be adversely affected by this proposal as the territory is developed and is contiguous to lands that have been developed with urban uses and the territory does not contain any agricultural uses and is not considered to be “prime agricultural land” as defined in California Government Code §56064. Therefore, no conversion of designated agricultural or open space lands will occur as a result of the proposed annexation.
- G. The parcels proposed for annexation will be detached from the following districts:
 - 1. County Service Area No. 164 (Butte County Animal Control); and
 - 2. The Butte County Resource Conservation District.

- H. The following parcels are developed or are to be developed with sewer services provided by the City of Chico and will be removed from County Service Area No. 114 (Chico Nitrate):

Assessors Parcel Numbers: 006-400-063, 064, 065 and 066

- I. All of the parcels within the territory that are within County Service Area No. 24 (Chico-Mud Creek Drainage) will remain within this CSA.
- J. All of the parcels within the territory that are within County Service Area No. 87 (Keefer Road/Rock Creek Drainage) will remain within this CSA.
- K. The exchange of property tax revenues between the County of Butte and the City of Chico will be performed in accordance the Amended Master Property Tax Exchange Agreement, executed between the City of Chico and the Butte County Board of Supervisors on November 4, 1987.

Section 3. Conditions requested by LAFCO:

- A. All LAFCO, County of Butte and State of California fees must be paid in full prior to filing the Certificate of Completion.
- B. The legal description and map, if amended by action of the Commission, will be revised at the expense of the applicant, prior to filing the Certificate of Completion.
- C. The map and legal description shall comply with the State Board of Equalization requirement and if rejected by the State Board of Equalization, will be revised at the expense of the applicant.

Section 4. The boundaries, as set forth in the proposal or as amended by action of the Commission, are hereby approved as submitted and are as described in Exhibits A and B attached hereto and by this reference incorporated herein.

Section 5. Waiver of Protest Proceedings:

- A. Pursuant to California Government Code §56663 (Waiver of Protest Proceedings) the Commission waives protest proceedings for the annexation if no written objections to the proposed annexation are received from any landowner or registered voter within the territory prior to the close of the public hearing on the annexation.
- B. If written objections to the proposed annexation are received from any landowner or registered voter within the territory prior to the close of the public hearing on the annexation, the Commission directs the Executive Officer to set the proposal for a protest hearing and give public notice of said hearing pursuant to Butte LAFCo Policy and California Government Code Section 57002.

Section 6. The Executive Officer is hereby authorized and directed to mail certified copies of this Resolution as provided in Section 56882 of the Government Code.

PASSED AND ADOPTED by this Local Agency Formation Commission of the County of Butte, on the 5th day of October 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINS:

ATTEST:

Clerk of the Commission

CARL LEVERENZ, Chair
Butte Local Agency Formation Commission