TO: Local Agency Formation Commission
FROM: Stephen Betts, Deputy Executive Officer
SUBJECT: LAFCo File 18-13 – City of Chico – Extension of Services – 1514 Bidwell Drive
DATE: July 25, 2018, for the meeting of August 2, 2018

Summary
The City of Chico is requesting approval to extend sanitary sewer services to a single unincorporated parcel that is developed with a single family dwelling (Exhibit A). An emergency authorization was approved to allow the parcel to connect to the City’s sanitary sewer system due to a failed septic system. The parcel is contiguous to City of Chico jurisdictional boundaries, but the annexation of this single parcel would not create logical service area boundaries.

Staff recommends that the Commission approve the extension of services request. Draft Resolution No. 2 2018/19 (Exhibit B) contains recommended conditions of approval.

General Information
Application Submitted: June 4, 2018
Application Deemed Complete: June 18, 2018
100% Landowner Consent: Yes
Notice and Hearing Required: No
Proponent: City of Chico
Landowner: Sarah Leonard
Location: The subject parcel is identified as Assessor’s Parcel Number 043-260-020 (1514 Bidwell Drive, Chico, CA). The parcel is located on the north side of Bidwell Drive, approximately 300 feet east of Oak Lawn Avenue, in the west Chico area. The subject parcel is located within Supervisorial District 2.
Proposal: Extension of City of Chico sanitary sewer service to a single parcel.
Requested Action: Adopt Resolution No. 2 2018/19 (Exhibit B) approving the extension of City of Chico sanitary sewer services.
DISCUSSION AND ANALYSIS

Background

The subject parcel, which is approximately 9,583 sq. ft. (0.2 acres) in size, is developed with a 940 square foot, 3-bedroom, 1 bath, single-family dwelling built in 1951. Domestic water supply for the dwelling is provided by the California Water Service Company. The parcel fronts on Bidwell Drive, which is a public road that is improved with curbs, gutters and sidewalks. Land uses on the surrounding parcels are single-family dwellings to the west, east and south, and an apartment complex to the north. A City of Chico sewer line is located within the Bidwell Drive right-of-way. As shown on Exhibit A, several properties in the vicinity are connected to the City of Chico’s sanitary sewer system following failed or failing septic systems.

Project Site – 1514 Bidwell Drive

Until recently, sewage disposal for the dwelling on the subject parcel was handled by an on-site septic system. An inspection of the septic system by Johnny on the Spot Portable Toilets Inc./Chico Septic determined that the existing septic system had failed (Exhibit D). Butte County Environmental Health Division policies require, in the event of a failed or failing septic system, connection of the parcel to a public sanitary sewer if there is a sewer line within 250 feet of the parcel. On June 4, 2018, the LAFCo Executive Officer authorized an emergency extension of services to allow the City of Chico to connect the parcel to the City’s sanitary sewer system.

The subject parcel is contiguous to the City of Chico jurisdictional boundaries on the parcel’s north side. Due to the contiguity, the subject parcel could be annexed to the City of Chico. However, annexation of the subject parcel would result in the subject parcel being the only parcel on Bidwell Drive being within the City of Chico. The annexation of the single parcel would create illogical jurisdictional boundaries and would make it very difficult and inefficient for the City of Chico to provide full municipal services to the parcel. To ensure the creation of logical, efficient, and effective jurisdictional boundaries, annexation of the subject parcel may require the annexation of all the unincorporated parcels along Oak Lawn Avenue and Bidwell
Drive, which consists of 57 parcels totaling approximately 16 acres in size. The City of Chico is currently not contemplating the annexation of the Oak Lawn Avenue/Bidwell Drive area.

Land Use/Zoning Designations

The Butte County General Plan designates the subject parcel as Medium Density Residential (up to 6 dwelling units per acre) and the parcel is zoned Medium Density Residential (up to 6 dwelling units per acre). The City of Chico’s General Plan designates the parcel as Low Density Residential (1 to 7 units per acre) and the City has prezoned the parcel as R1.

Governing Law and LAFCo Policy

Provisions for extension of service requests are found in Government Code §56133 and in Section 4.5 of the Commission Policies and Procedures. In brief, the law permits the Commission to authorize a city or district to provide new or extended service outside its jurisdictional boundaries but within its sphere of influence (SOI) in anticipation of a later change of organization. These documents offer the following guidance:

- Extensions of service are to be in anticipation of annexation, which is generally defined by LAFCo as meaning the area is located within the agency’s Sphere of Influence (Butte LAFCo Policy 4.5.4.A.5).
- Annexations to cities and special districts are generally preferred for providing public services (Butte LAFCo Policy 4.5.4.A.1).
- Local circumstances, health and safety, emergency service, or other concerns may warrant the approval of an extension of service where annexation is not practical or deemed undesirable for other policy reasons (Butte LAFCo Policy 4.5.4.A.1).
- Extension of service agreements are usually considered to be a temporary measure, typically considered in response to an existing or impending public health and safety threat (e.g., failing septic system or domestic water well), or when annexation is not immediately feasible, and in anticipation of a future annexation (Butte LAFCo Policy 4.5.4.A.1).
- The Commission gives great weight to properly documented existing health and safety needs when considering justification of such extensions (Butte LAFCo Policy 4.5.4.A.1).
- The Commission discourages use of contract service extensions for the purpose of extending services to new development and will approve such extensions only under extraordinary circumstance and may apply strict limitations on such services (Butte LAFCo Policy 4.5.4.A.1).

Requests for Approval

In accordance with State law, requests and approvals for extensions of service are to be filed and acted upon prior to an agency providing services. All requests shall explain the specific circumstances that make annexation infeasible and justify extension of service by contract. The Commission may condition requests for extension of services where it finds local circumstances warrant applying greater scrutiny and guidance.

Whenever the Commission determines to condition the approval upon a later annexation of the affected property, the condition shall normally include a requirement that the owner record an agreement consenting to annex the territory, which agreement shall bind future owners of the property. A signed, notarized annexation agreement was submitted with this extension of services application.
Pursuant to Butte LAFCo Policy 4.5.4.D, the Executive Officer is required to evaluate the following five factors when reviewing an extension of services request. The factors are intended to provide the Commission with information about certain topics that are often relevant to extension of services request. No single factor is determinative. An evaluation of these factors as it relates to the proposed extension of service request follows.

1) The ability of the local agency to provide service to the proposal area without detracting from current service levels.

   The City of Chico owns and maintains a wastewater collection, treatment, and disposal system. As indicated in the City’s Municipal Service Review (adopted by the Commission in 2006), and the City’s General Plan (adopted by the City in 2011), the City of Chico’s wastewater system has sufficient capacity to provide service to the affected parcel without detriment to current service recipients. A City of Chico sanitary sewer line is located within the Bidwell Drive right-of-way, in front of the subject property.

   The City does not, and will not, provide any other parcel specific service, such as fire protection and law enforcement services, to the subject parcel. The existing public services provided to the subject parcel by Butte County will not change as a result of this proposal until such time as the parcel is annexed to the City of Chico.

2) The proposal’s consistency with the policies and general plans of all affected local agencies.

   The subject parcel is developed with a single-family dwelling. This use is consistent with the City of Chico’s General Plan land use designation of Low Density Residential and with the City’s R1 prezoning of the parcel. The existing use is also consistent with the County’s General Plan land use designation of Medium Density Residential and the County’s zoning of Medium Density Residential.

3) The proposal’s effect on growth and development within and adjacent to the affected land.

   The proposal to connect to the City of Chico’s sanitary sewer system will facilitate the continued use of the parcel for single-family residential purposes. The extension of services will be conditioned to state that the extension of sewer services is for existing development only. Any additional development on the parcel, such as another dwelling unit, will not be allowed unless the parcel is first annexed to the City of Chico.

4) Whether the proposal contributes to the premature conversion of agricultural land or other open space land.

   No agricultural uses are found on the subject parcel or in the area. The proposed extension of sanitary sewer service to the subject parcel will not affect agricultural lands.

5) The likelihood of a later change of organization being initiated by the affected agency.

   The subject parcel is contiguous to the City of Chico’s jurisdictional boundaries on the parcel’s north side. Due to the contiguity, the subject parcel could be annexed to the City of Chico. However, annexation of the subject parcel would result in the subject parcel being the only parcel on the north end of Bidwell Drive being within the City of Chico. The annexation of the single parcel would create illogical jurisdictional boundaries and would make it very difficult and inefficient for the City of Chico to provide full municipal services to the parcel. To ensure the creation of logical, efficient, and effective jurisdictional boundaries, annexation of the subject parcel may require the
annexation of all the unincorporated parcels along Oak Lawn Avenue and Bidwell Drive, which consists of 57 parcels totaling approximately 16 acres in size. The City of Chico is currently not contemplating the annexation of the Oak Lawn Avenue/Bidwell Drive area.

A Butte LAFCo Annexation Consent Agreement and Covenant was submitted with the extension of services application, which binds the current and future owners of the parcel to the future annexation of the parcel. The annexation consent agreement and covenant has been recorded with the Butte County Recorder’s Office and all prospective buyers of the parcel will be aware of annexation requirement.

Environmental Analysis

The proposed extension of service is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) – General Rule Exemption. This section can be used when there is no possibility that the activity in question may have a significant effect on the environment, and is therefore exempt from CEQA review. The General Rule exemption is appropriate for this proposal because: 1) the subject parcel is developed with a residential use; 2) the residential use is consistent with the City’s General Plan and prezoning and with the County’s General Plan and Zoning Ordinance; and 3) the City has already extended sewer infrastructure to the area.

Staff Recommendation

This proposal meets all of the five criteria established to review service extensions in that:

1) The City has documented its ability to provide service;
2) The proposal is consistent with current land use plans for the City;
3) The proposal will have an insignificant effect on growth and development;
4) The proposal will not cause impacts to agricultural land.
5) The parcel is located in the City of Chico SOI which is considered to be sufficient to make a finding that it’s anticipated for later annexation.

This extension of services authorization is intended to serve only for development on the affected parcel that existed at the time of application to LAFCo, which for this project is a single-family dwelling use. Staff recommends that the Commission approve the extension of City of Chico sanitary sewer services to the subject parcel, but with the following condition that prohibits new development that requires additional sewer service:

The authorization to extend City of Chico sewer services to the subject parcel (APN 043-260-020 - 1514 Bidwell Drive) is explicitly restricted to the current, existing use on the parcel as of the approval of the LAFCo authorization, which is a 940 square foot single-family dwelling. Prior to the City of Chico or County of Butte authorizing or otherwise allowing any new or additional development on the parcel that alters the existing use, the City or County shall provide such proposals to the LAFCo Executive Officer for review of compliance with this sewer extension authorization.

ALTERNATIVES FOR COMMISSION ACTION

After reviewing this report and any testimony or materials that are presented, the Commission can take one of the following actions:
OPTION 1 – APPROVE the proposal as submitted:

A. Find that the extension of services request is not subject to the provisions of the California Environmental Quality Act per Section 15061(b)(3), General Rule Exemption.

B. Adopt Resolution No. 2 2018/19 authorizing the City of Chico to provide sanitary sewer service outside the City’s boundary to the property located at 1514 Bidwell Drive (APN 043-260-020) in the unincorporated Chico area.

OPTION 2 - DENY the proposal and require the parcel owner seek immediate annexation of the parcel.

OPTION 3 - CONTINUE this proposal to a future meeting for additional information.

ACTION REQUESTED: Approve OPTION 1.

Respectfully submitted,

Stephen Betts
Deputy Executive Officer

Attachments:
Exhibit A: Area Map – pg. 2
Exhibit B: Draft LAFCo Resolution No. 2 2018/19 – pg. 8
Exhibit C: Emergency Extension of Services Application – pg. 11
Exhibit D: Septic Inspection Report – pg. 12
RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF BUTTE
AUTHORIZING THE CITY OF CHICO TO
PROVIDE OUT-OF-AGENCY SANITARY SEWER SERVICES TO
1514 BIDWELL DRIVE (APN 043-260-020), CHICO, CA

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

WHEREAS, a proposal for the extension of public sanitary sewer services by the City of Chico to 1514 Bidwell Drive (APN 043-260-020), Chico, CA, located outside of the Chico city limits but within the City of Chico's Sphere of Influence, in the County of Butte, was heretofore filed by the City of Chico and accepted for filing on June 18, 2018, by the Executive Officer of this Local Agency Formation Commission pursuant to Title 5, Division 3, Part 1, Chapter 3, Section 56133 of the Government Code; and

WHEREAS, the subject parcel is contiguous to the City of Chico's jurisdictional boundaries on the parcel's north side. However, annexation of the subject parcel would result in the parcel being the only parcel on Bidwell Drive being within the City of Chico, resulting in illogical and inefficient jurisdictional boundaries; and

WHEREAS, due to a failed septic system, and to prevent potential health and safety issues, the subject parcel was allowed to connect to the City of Chico's sanitary sewer system under an emergency authorization granted by the LAFCo Executive Officer on June 4, 2018; and

WHEREAS, a City of Chico sanitary sewer line is installed within the Bidwell Drive right-of-way in front of the property and the City of Chico's sanitary sewer system and wastewater treatment plant have adequate capacity to serve the subject parcel; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658, set August 2, 2018, as the hearing date on this proposal; 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, this Commission called for and held a hearing on August 2, 2018, and at the hearing this 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
NOW, THEREFORE, the Local Agency Formation Commission of the County of Butte DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

Section 1. Environmental Action:

A. The Commission finds that the extension of services request is not subject to the provisions of the California Environmental Quality Act per Section 15061(b)(3) (General Rule Exemption).

Section 2. Determinations:

A. The Commission has considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, Sphere of Influence and City of Chico General Plan and zoning consistency, the City of Chico Municipal Service Review, and other factors specified in Government Code Section 56133, and as described in the staff report dated July 25, 2018, for the meeting of August 2, 2018.

B. The Commission authorizes the City of Chico to extend sanitary sewer service outside the City’s boundary to the property located at 1514 Bidwell Drive (APN 043-260-020), in the unincorporated Chico area.

C. The proposal is assigned the following short form designation: 18-13 - City of Chico – Extension of Services – 1514 Bidwell Drive.

D. The purpose of the extension of services is to allow the City of Chico to provide public sanitary sewer service to the subject parcel.

E. The City of Chico’s sanitary sewer system has adequate capacity to serve the dwelling on the subject parcel and a City of Chico sanitary sewer line is located within the Bidwell Drive right-of-way.

F. The territory is located within the City of Chico’s Sphere of Influence and is not within the Sphere of Influence or the district of any other sanitary sewer service provider.

G. This extension of sanitary sewer services is to support development on the subject parcel that existed at the time of application to LAFCo.

Section 3. Conditions requested by LAFCo:

A. All LAFCo fees must be paid in full prior to the extension of service authorization becoming effective.

B. The authorization to extend City of Chico sewer services to the subject parcel (APN 043-260-020 – 1514 Bidwell Drive), is explicitly restricted to the current, existing use on the parcel as of the date of the LAFCo authorization, which is a 940 square foot single-family residential dwelling. Prior to the City of Chico or County of Butte authorizing or otherwise allowing any new or additional development on the parcel that alters the existing use, the City or County shall provide such proposals to the LAFCo Executive Officer for review of compliance.
with this sewer extension authorization. This condition will become inapplicable following a future annexation to the City of Chico.

PASSED AND ADOPTED by this Local Agency Formation Commission of the County of Butte, on the 2nd day of August 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINS:

ATTEST:

______________________________
Clerk of the Commission

______________________________
CARL LEVERENZ, Chair
Butte Local Agency Formation Commission
Emergency Extension of Services Application

Purpose: This Emergency Extension of Services Application is intended to be used by a local agency to request an immediate authorization from Butte LAFCO for urgent service extensions subject to ALL of the following criteria:

1. The lack of service being requested constitutes an immediate health and safety concern; and
2. The property is currently developed; and
3. There are physical restrictions on the property that prohibit a conventional service delivery method typically suited to the unincorporated area (i.e., septic tank, private well, etc.)

Process: The local agency shall complete the Emergency Extension of Services Application and submit it to the Executive Officer (via mail, fax or email) who will immediately evaluate the request and is authorized to approve the immediate extension of services subject to submission by the affected agency within 30 days of emergency approval, a complete Extension of Services Application with appropriate fees for Commission consideration.

Please provide the following information:

Applicant (local agency) ____ CITY OF CHICO
Assessor’s Parcel Number(s): ____ 043 - 260 - 020
Street Address: ____ 1514 BIDWELL DRIVE
Landowner Name: ____ SARAH LEONARD
Requested Service(s): Sewer
Reason for Emergency Extension of Service(s): ____ FAILED LEACH LINE

(Note: Please attach documentation from the local agency, a licensed contractor or the Butte County Environmental Health Division if for a septic system or well failure.)

As the local agency providing emergency services to the affected parcel, I certify that the reason for the emergency condition is accurate and the agency understands the responsibility to submit a formal application and all appropriate fees as noted above.

Authorized Local Agency Contact: Name: __________ Title: __________
Signature: __________

Approved by LAFCO Executive Officer (or designee) on __________

Executive Officer Signature
Johnny on the Spot Portable Toilets Inc./Chico Septic
City Sewer Hook-Up Contract

Customer Name: SARAH LEONARD
Phone Number: 530-345-6742

Mailing Address: 1514 Bidwell Dr
Alt Phone: 

City: Chico, CA, Zip Code: 95928
Email Address:

Physical Address Where Tank is Located: 1514 Bidwell Dr.

Homeowner (Customer) will receive hook up to the city sewer, includes all labor & materials. Customer agrees to pay $5000 prior to or upon completion of the job, due to a failed leach line.

This contract is subject to the following terms and conditions:

1. ENTIRE CONTRACT: This writing contains the entire contract agreement of both parties. Customer acknowledges that no other promises, covenants or representations have been made by Johnny on the Spot Portable Toilets Inc./Chico Septic, its employees or assigns.

2. By signing this contract, customer acknowledges that he or she has read the entire contract and agrees to all terms contained herein.

3. Johnny on the Spot Portable Toilets Inc./Chico Septic is not responsible for any damage to grass, shrubbery, plants or any structures placed within 10 feet of the septic tank.

4. Customer is responsible for providing access to the property to Johnny on the Spot Portable Toilets Inc./Chico Septic, its employees, agents, contractors or assigns for the purpose of rendering services covered in the contract. Customer also agrees to contain any animals that may provide a safety risk to Johnny on the Spot Portable Toilets Inc./Chico Septic personnel, its agents, contractors or assigns.

5. Customer agrees that should any dispute arise concerning this contract, the parties shall submit the dispute to binding arbitration.

6. The laws of the state of California, county of Butte, shall govern this contract and the terms contained herein.

The parties agree to the terms as set out above. Customer agrees to pay Johnny on the Spot Portable Toilets Inc./Chico Septic the sum of Five Thousand dollars for this City Sewer hookup contract.

Sarah Leonard
Customer Signature

5/30/18
Date

Agent for Johnny on the Spot Portable Toilets Inc./Chico Septic
Cont Lic #970202

Direct correspondence or payments to:
Johnny on the Spot Portable Toilets Inc./Chico Septic
815 Sheridan Avenue
Chico, CA 95926
530-343-6340