

M E M O R A N D U M

TO: Local Agency Formation Commission

FROM: Stephen Lucas, Executive Officer

SUBJECT: **Agenda Item 6.1 - Executive Officer's Report**

DATE: July 30, 2014 for the meeting of August 7, 2014

ADMINISTRATION: CALAFCO is now accepting nominations for its 2014/15 Achievement Awards to be announced at the CALAFCO annual conference in Ontario on October 16, 2014. Staff is requesting the Commission to consider if it wishes to make any award nomination in the categories shown on Attachment 1.

PROJECT NOTES: Staff has provided revised/updated comments (Attachment 2) to the City of Chico on the proposed Pomona Avenue Annexation No. 6 which proposes to annex a 7.5 acre parcel for the construction of 152 unit student housing complex (The Arbors) located on the south side of Pomona Avenue on the southern boundary of the City abutting the Greenline. Of chief concern to Staff are: 1) the proposed boundaries of the annexation and 2) impacts to the neighboring agricultural processing facilities operated by Blue Diamond Growers and North State Hulling. The Commission is asked to consider the comments and offer any additional thoughts to staff for future consideration.

GENERAL NOTES: As previously reported, the Friends of Southside have provided their intent to circulate a petition in support of annexation of the Southside Oroville neighborhood. It has been reported that they have collected approximately 100 signatures so far which exceeds the approximately 45 signatures necessary to support the annexation petition to LAFCo should they elect to do so.

LEGISLATIVE NOTES:

Several water bills are making their way through the legislature that have potential implications to LAFCo in terms of forming new districts to evaluate groundwater plans. The bills are constantly changing and staff will provide a more thorough update at the September meeting.

FINANCIAL REPORT: N/A

APPLICATION ACTIVITY See Exhibit 2

Attachments: 1. CALAFCO Achievement Awards Categories
2. Pomona Avenue Annexation Comments of July 23, 2014

Exhibit 2 - APPLICATION ACTIVITY*Project Status As of July 29, 2014*

File	Applicant	Project Name	Date Application Received	Certificate of Filing	LAFCO Hearing Date	Certificate of Completion	SBE Submittal Date	Additional Comments
11-06	Butte County	CSA No. 114 - Expansion of Powers	02/02/11	N/A	pending	N/A	N/A	Incomplete - On Hold
11-22	Oroville	SOI Plan Update	06/21/12	N/A		N/A	N/A	Incomplete
13-15	Chico	Stewart Ave. Annexation No. 3	05/02/13	12/09/13	02/06/14	06/19/14	07/29/14	Waiting for SBE acknowledgement
13-21	Chico	Ext. of Services - 1420 Boucher St.	02/07/13	N/A		N/A	N/A	Incomplete -Ck for Fees Returned
14-02	Chico	Boucher Street Annexation No. 06	11/13/13	02/03/14	04/01/14			approved - 1 parcel only.
14-14	Chico	Ext. of Services - 1221 Martin St.	05/28/14	N/A	07/03/14	N/A	N/A	approved
14-15	Chico	Ext. of Services - 884 Virginia St.	06/18/14	N/A	07/03/14	N/A	N/A	approved
14-16	Oroville	Acacia Avenue Annexation No. 5	06/24/14	07/14/14	08/07/14			In process
15-01	Chico	Ext. of Services - 982 Cleveland Ave.	06/26/14	N/A	08/07/14	N/A	N/A	In process
SP-57	LAFCo	Gateway at Butte Creek						Consultation



2014 Achievement Award Nominations

CALAFCO ACHIEVEMENT AWARD CATEGORIES

CALAFCO recognizes excellence within the LAFCo community by presenting the *Achievement Awards* at the CALAFCO Annual Conference. Nominations are being accepted until *Friday, August 22, 2014*, in the following categories:

Outstanding CALAFCO Member	Recognizes a CALAFCO Board Member or staff person who has provided exemplary service during the past year.
Distinguished Service Award	Given to a member of the LAFCo community to recognize long-term service by an individual.
Most Effective Commission	Presented to an individual Commission to recognize innovation, streamlining, and/or initiative in implementing LAFCo programs; may also be presented to multiple Commissions for joint efforts.
Outstanding Commissioner	Presented to an individual Commissioner for extraordinary service to his or her Commission.
Outstanding LAFCo Professional	Recognizes an Executive Officer, Staff Analyst, or Legal Counsel for exemplary service during the past year.
Outstanding LAFCo Clerk	Presented to a LAFCo Clerk for service above and beyond the call of duty.
Project of the Year	Recognition for a project-specific program that involved complex staff analysis, community involvement, or an outstanding solution.
Government Leadership Award	Presented to a decision-making body at the city, county, special district, regional or state level which has furthered good government efforts in California.
Legislator of the Year	Presented to a member of the California State Senate or Assembly in recognition of leadership and valued contributions in support of LAFCo goals. Selected by CALAFCO Board.
Mike Gotch Courage and Innovation in Local Government Award	Presented to an individual who has taken extraordinary steps to improve and innovate local government. This award is named for Mike Gotch: former Assembly Member, LAFCo Executive Officer and CALAFCO Executive Director responsible for much of the foundations of LAFCo law and CALAFCO. He is remembered as a source of great inspiration for staff and legislators from throughout the state.
Lifetime Achievement Award	Recognizes any individual who has made extraordinary contributions to the LAFCo community in terms of longevity of service, exemplary advocacy of LAFCo-related legislation, proven leadership in approaching a particular issue or issues, and/or demonstrated support in innovative and creative ways of the goals of LAFCOs throughout California. At a minimum, the individual should be involved in the LAFCo community for at least ten years.



BUTTE LOCAL AGENCY FORMATION COMMISSION

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July 23, 2014

Mike Sawley, Associate Planner
City of Chico
P.O. Box 3420
Chico, CA 95927

RE: Review of the June 24, 2014, Initial Study/Mitigated Negative Declaration for the Proposed City of Chico Pomona Avenue Annexation District No. 6 (ANX 13-02)

Dear Mr. Sawley:

On March 13, 2014, the Butte Local Agency Formation Commission (LAFCO) Staff provided extensive comments (*Attachment 1*) to the City of Chico on the February 14, 2014, Initial Study/Mitigated Negative Declaration for the Proposed City of Chico Pomona Avenue Annexation District No. 6 (ANX 13-02). Given the active interest of affected parties who have addressed the Commission concerning this proposal, Staff comments were reviewed with the Commission at its June 5, 2014, meeting. The Commission fully supported the Staff comments and indicated a high level of concern for the protection of agricultural land uses that exist at the urban/rural interface along the Chico Greenline. The City of Chico subsequently prepared and circulated a new Initial Study/Mitigated Negative Declaration for the proposal, which is dated June 24, 2014. Butte LAFCO's March 13 comments are still applicable to this project and the City of Chico should consider those comments when reviewing this proposal along with our additional comments on the new Initial Study/Mitigated Negative Declaration which continue to reflect the Commission's concerns regarding this proposal

Section G (Project Description)

The original annexation proposal was for four parcels totaling approximately 7.5 acres. Our March 13 comments noted that Butte LAFCO would consider adding additional parcels to the annexation proposal to ensure logical, effective, and efficient jurisdictional boundaries and to eliminate unincorporated island areas. The City's annexation proposal area now encompasses eight (8) parcels totaling approximately 11.7 acres in size, which would eliminate an island of unincorporated parcels to the west of the proposed student housing project. The revised initial study notes that annexation of the 29-parcel, 12.2-acre unincorporated area located along Pomona Lane to the east of the student housing project may not be feasible due to landowner opposition. As a result of the City's proposed annexation, this 12.2-acre residential area would become substantially surrounded by the City of Chico and remain the responsibility of the County to provide urban level services. This would only exacerbate service delivery inefficiencies and create a pocket of unincorporated territory with little incentive for the City to annex this area within its established sphere of influence. Pursuant to the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California

Government Code §56000 et seq.) and Commission policies, Butte LAFCo will need to evaluate adding the 29-parcel Pomona Lane unincorporated island area to the City's annexation proposal should an annexation application be submitted. If so, we may have to require additional environmental review.

Agricultural Buffers

The project description section includes a conceptual site plan that shows a building setback of approximately 135 to 139 feet from the south property line, which abuts the parcel that contains the North State Hulling Cooperative's almond processing facility, a facility that has been operating at this location for over 40 years. The original initial study for this project showed an approximate 80-foot building setback from the south property line, so the revised initial study does provide for a greater building setback from the south property line. The revised conceptual site plan is in accordance with the City's 100-foot building setback from agriculturally-zoned parcels. However, the 135+ foot building setback is well short of the 300-foot building setback that Butte County utilizes when mitigating impacts to agricultural uses countywide (Butte County Code Section 24-83). The 135+ foot building setback, even in conjunction with the proposed 8-foot tall fence and double row of redwood trees noise/dust barrier, may not provide for adequate buffering from the adjacent North State Hulling Cooperative's almond hulling facility. For example, it is commonly accepted that trees do not provide any substantial noise attenuation. Given this discrepancy in policies, Butte LAFCo may need to conduct additional studies at the applicant's expense to determine if appropriate and effective mitigations are applied to the proposal. If available, the City should provide the methodology utilized in evaluating and determining appropriate agricultural buffers, otherwise, the mitigations proposed are merely unsubstantiated suggestions.

The conceptual site plan notes that the site design will undergo City design review in the future, and further notes that the site plan ultimately approved may differ from the plan shown in the initial study. While Butte LAFCo is charged with preserving the integrity of agricultural uses, it is not authorized to directly impose land use restrictions. Therefore, the Commission may consider denying the project if the City does not bring it to LAFCo with documented, adequate and binding site design criteria to prevent or reduce impacts to the adjacent agricultural uses and to reduce noise and dust and other impacts within the project that could cause residents to seek to limit or otherwise restrict adjacent agricultural activities. These site design criteria may include, but not be limited to, such items as compliance with the County standard of a 300-foot building setbacks from property lines, the location and design of a sound/dust wall, the location and design of vegetation barriers and other structural building design concepts intended to reduce impacts to the residents of the proposed project that may result in residents to seek to limit or otherwise restrict adjacent agricultural activities.

Sections B (Air Quality), I (Land Use and Planning), and J (Noise)

These sections note that the project site is adjacent to the North State Hulling Cooperative's almond hulling facility, which generates large amounts of dust and noise for about ten weeks during the fall almond harvest. As noted in the initial study, the future residents of the proposed student housing development will be subjected to the inconvenience and possible discomfort of seasonal fugitive dust

and noise from the almond hulling facility use. While CEQA is concerned with the impacts of a proposed project on the environment, it is common place for such adjacent nuisances to generate complaints and other actions that may cause residents to seek to limit or otherwise restrict adjacent agricultural activities.

The applicant for the proposed student housing project proposes to install an 8-foot tall masonry fence with a double row of redwood trees along the southerly project boundary to help reduce dust and noise generated by the almond hulling facility. As was previously noted in our March 13 comments, what studies have been conducted to show that the 8-foot tall fence and the two rows of redwood trees will actually reduce dust impacts to the residents of the proposed apartment complex? The initial study states that the fence/tree barrier “may” interrupt the free flow of airborne dust from the almond hulling facility into the project site but that dust from the hulling facility would still enter the project site during hulling season. Without more scientific information about the actual efficacy of these measures on dust flow it is impossible to determine if the measures amount to any real mitigation at all. Certainly, the language of the MND suggests that there will not be any significant mitigation of the impact as a result of these measures. Is this design an acceptable means to prevent or lessen the amount of dust reaching the project site to a level that will not generate complaints? Has the Butte County Agricultural Commissioner’s Office and the Butte County Air Quality Management District reviewed and approved of the wall/tree design? What mechanism will be put into place by the City to ensure the maintenance and the replacement of the masonry fence and the redwood trees?

The project now includes Mitigation I.1 (Land Use and Planning) that requires the operator of the student housing development to obtain signed agricultural acknowledgements from all tenants. The acknowledgement provides notice to the tenants that they may be subjected to impacts from agricultural uses, and provides notice to the tenants of the right of existing agricultural uses, including the adjacent almond hulling facility use, to continue in operation. While it is notable that the project now includes the agricultural acknowledgement mitigation measure, the acknowledgement does not prevent the tenants from filing complaints with the Butte County Air Quality Management District (BCAQMD) about dust generated by the almond hulling facility or seek other legal remedies to address real or perceived impacts. If the complaints are substantiated, BCAQMD could take enforcement action against the almond hulling facility, which could include the issuance of citations and the payment of fines, require changes to facility equipment and/or the operating practices of the facility, and in extreme cases, possibly the revocation of the facility’s existing air quality permit. Continued complaints and enforcement action by BCAQMD could ultimately result in almond hulling facility being compelled to relocate to another part of the county, or even moving out of the county. It would be very costly for North State Hulling Cooperative to relocate the facility, and relocating it may cause significant problems for almond growers as they may have to transport their crops further distances. Moving the almond hulling facility to another county would reduce property tax revenue to the county, result in the loss of jobs in the county, and require almond growers to transport their crops further at additional expense. The initial study does not consider such possibilities which in of themselves represent potential environmental impacts related to additional truck traffic and greenhouse gas emissions. Since the MND fails to provide information that the dust impacts will be substantially mitigated, or that complaints about the dust

can be legally suppressed, the potential for this impact to occur is reasonably foreseeable and, under CEQA, must be addressed.

Consistency with Established Land Use Policies

As noted above, the project only proposes a 138-foot setback of medium density residential from existing agricultural uses. This does not comply with the County standard of 300' though it does comply with the City's more flexible standard of 100 feet plus mitigation. While upon annexation the City land use regulations will technically apply, in this case it is also necessary to consider the fact that the project is on the Chico Greenline. Under the existing adopted policies of both Chico and the County, the Chico Greenline is intended as the long term border between the City and urban uses and the County and agriculture. To only consider the City's standards when approving development abutting the Chico Greenline, would effectively nullify the County's agricultural buffer policy all along this most critical urban/agricultural interface. This could have the effect of forcing much of the needed buffer on to the adjoining agricultural land or hastening the removal of that land from agricultural production. The environmental document must consider not just the impacts this approach causes for this project but its precedential effect for all other development along the Chico Greenline. This is a significant land use conflict that in and of itself should justify preparation of an EIR to better analyze the impacts.

The City of Chico's General Plan 2030 contains goals, policies, and actions regarding agricultural resources that should be taken into consideration by the City Council when reviewing the proposed annexation/student housing project. The applicable goals, policies, and actions are:

***Policy ED-2.3 (Agricultural Business)** - Support opportunities to expand agricultural-related businesses as a growth industry important to the local economy.*

***Policy LU-2.4 (Land Use Compatibility)** - Promote land use compatibility through use restrictions, development standards, environmental review and special design considerations.*

***Policy LU-2.6 (Agricultural Buffers)** - Require buffering for new urban uses along the City's Sphere of Influence boundary adjacent to commercial crop production. Landscaping, trails, gardens, solar arrays, and open space uses are permitted within the buffer. Design criteria for buffers are as follows:*

- *A minimum 100-foot-wide physical separation, which may include roadways, pedestrian/bicycle routes, and creeks, between the agricultural use and any habitable structure.*
- *Incorporate vegetation, as may be needed, to provide a visual, noise, and air quality buffer.*

***Goal OS-5** - Preserve agricultural areas for the production of local food and the maintenance of Chico's rural character.*

***Policy OS-5.2 (Agricultural Resources)** - Minimize conflicts between urban and agricultural uses by requiring buffers or use restrictions.*

***Action OS-5.2.1 (Agricultural Buffers)** - Require buffers for development adjacent to active agricultural operations along the Greenline to reduce incompatibilities, and explore opportunities for public uses within buffers.*

***Policy OS-5.3 (Support Agriculture)** - Support local and regional agriculture.*

In addition to the above noted goals, policies, and actions, Appendix B (Opportunity Sites) of the City's General Plan 2020 lists the Pomona Avenue project site as an "Other Opportunity Site." Regarding the Pomona Avenue site, Appendix B states:

Pomona Avenue Opportunity Site

This site, located adjacent to the Greenline, is partially within the City limits and includes a mixture of residential densities. Due to the site's proximity to CSU Chico and Downtown, it presents an opportunity for increased residential densities. The site also includes a small area designated for Neighborhood Commercial development along Dayton Road to allow for expansion of the existing, small commercial center. New development within this site will need to be compatible with commercial agriculture operations to the west, south and east.

It appears that the proposed annexation/student housing project may not be consistent with the City's General Plan as it may have a significant impact to the adjacent North State Hulling Cooperative's almond hulling facility as well as existing agriculturally producing lands. The Commission will take into consideration the applicable goals, policies, and actions of the City's General Plan when reviewing the annexation proposal and make an independent determination if such inconsistencies exist. Also, the MND is inadequate in its discussion of consistency.

Impacts to Groundwater (H-1)

LAFCo is required to make a determination under California Government Code §56668(k) in approving any annexation that there is an adequate water supply for the project's needs. The City's Revised MND does not address the issue of water consumption and availability at all. The impact on Groundwater (Question H-1) is entirely ignored. As such, the environmental document is per se inadequate. This project proposes to create 160 new residential units all of which will receive water from a privately owned water supplier that obtains all of its water from groundwater. The MND at a minimum must quantify the additional water consumption involved with this project, discuss the current status of the aquifer supplying that water and whether it can continue over the long run to supply the demands of the cumulative growth to which this project makes a substantial contribution. Much of this is probably already covered in the County General Plan and EIR but it needs to be summarized and addressed in this environmental document as it relates to this project.

Summary

The revised initial study does not appear to have adequately addressed the dust and noise impacts to the future residents of the proposed student housing project and its consequent impact on the continuing viability of the adjacent North State Hulling Cooperative's almond hulling facility. Additionally, the initial study does not appear to have adequately analyzed the project's impact to ground water supplies. The Commission, as recently as its June 5, 2014, meeting, has indicated,

when reviewing the City's annexation proposal, it may determine that the City's initial study/mitigated negative declaration may not have adequately addressed these impacts and direct that the environmental review be supplemented, either through a new initial study or through the preparation of an environmental impact report, both of which would be prepared at the City's expense. Should the Commission determine the City's environmental review does not adequately reduce significant impacts the Commission can adopt feasible mitigation measures for the annexation pursuant to Section 15041(b) of the CEQA Guidelines. Additionally, should the Commission determine that the City's environmental review does not adequately address the impacts Section 15042 of the CEQA Guidelines provides the Commission the authority to deny a project in order to avoid significant adverse environmental impacts. To ensure that the project complies with the California Environmental Quality Act, the Cortese Knox Hertzberg Local Government Reorganization Act, and local Commission policies, and that no unnecessary delays to the project occur, the Commission encourages the City of Chico to prepare an environmental impact report that fully analyzes the dust and noise impacts to the residents of the student housing development, analyzes the impacts to the almond hulling facility as well as other neighboring agricultural uses, and analyzes impacts to groundwater. An EIR is also appropriate because of the conflicts of the project with established land use policies and its precedential effect for all future development along the Chico Greenline.

Sincerely,

Steve Betts

Steve Betts
Deputy Executive Officer

Attachments: 1. March 13, 2014 LAFCO Comments

cc: Butte LAFCo Commissioners
Scott Browne, Butte LAFCo Counsel
Rick Barnett, General Manager, North State Hulling Cooperative, Inc.
George Nicolaus, Chairman, Board of Directors, North State Hulling Cooperative, Inc.
Mark Jansen, President and CEO, Blue Diamond Growers
Jeff Carter, Esq.
Richard Price, Butte County Agricultural Commissioner
Tim Snellings, Director, Butte County Development Services
Jim Wagoner, Butte County Air Quality Management District
Colleen Cecil, Butte County Farm Bureau
Robyn DiFalco, Butte Environmental Council

Mike Sawley
July 23, 2014
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BUTTE LOCAL AGENCY FORMATION COMMISSION

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March 13, 2014

Mike Sawley, Associate Planner
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P.O. Box 3420
Chico, CA 95927

RE: Review of the Initial Study/Mitigated Negative Declaration for the Proposed City of Chico
Pomona Avenue Annexation District No. 6 (ANX 13-02)

Dear Mr. Sawley:

Thank you for presenting the Butte Local Agency Formation Commission (LAFCo) with the opportunity to comment on the Initial Study/Mitigated Negative Declaration for the City of Chico’s proposed Pomona Avenue Annexation District No. 6 (File No. ANX 13-02). LAFCO will be a responsible agency for environmental review for the proposed annexation and intends to use the initial study in fulfilling its regulatory and planning responsibilities under the authority of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California Government Code §56000 et seq.). These duties include, but are not limited to, approving annexations, sphere of influence updates, and special district formations, consolidations, or dissolutions.

In reviewing the initial study, LAFCo’s primary consideration pertains to the Air Quality, Land Use and Planning, Noise, Public Services, and Utilities sections of the initial study. Our comments on the initial study follow.

Section G (Project Description)

Paragraph 1 of this section notes that the project includes the annexation of 7.5 acres of land to the City of Chico. This section also notes that the annexation process could result in a greater amount of land annexed to the City than was proposed to LAFCo and the initial study analyzes up to 12 acres of land for annexation. The project description does not identify, either by a map or by Assessor’s Parcel Numbers, the additional area that is identified for possible annexation to the City of Chico. We believe that the additional annexation area that is analyzed in the initial study includes APNs 004-520-003, 004-520-004, 004-520-005, and 004-520-023, which total approximately 4 acres in size. Please confirm that these four parcels constitute the additional annexation area that is analyzed in the initial study.

LAFCo may choose to add additional parcels to the annexation proposal to ensure logical, effective, and efficient jurisdictional boundaries and to eliminate unincorporated island areas. In addition to the four parcels noted above, LAFCo may consider adding an additional 29 parcels totaling approximately 12.2 acres to the annexation proposal. The 12.2-acre area is located on the south side of Pomona Avenue to the east of the proposed apartment complex and along Pomona Lane. As a result of the City's proposed annexation, this 12.2-acre area would become substantially surrounded by the City of Chico and it would be very inefficient for the County to provide services to this area.

The second to last paragraph on Page 2 notes that land uses on the surrounding parcels include a mix of multi-family and single-family residential uses. No mention is made of the large agricultural processing facilities to the south/southwest of the project site. This will likely be a critical consideration for the Commission given its charge to minimize impacts to agricultural uses.

The last paragraph on Page 2 notes that the project applicants propose to install an eight-foot high masonry fence (wall) with a double row of evergreen trees planted along the project boundary that is coterminous with the Chico Greenline. The conceptual development plan for the proposed apartment complex project found on Page 4 of the initial study does not show the location of the wall or the double row of trees.

It is LAFCo's understanding that the City has not yet approved the site design and architectural review for the proposed apartment complex. The conceptual development plan for the proposed apartment complex project found in the initial study is not adequate for LAFCo's future review of the annexation application. The City must submit a more detailed site plan with the annexation application. Preferably, a site plan approved by the City would be submitted with the annexation application.

Page 10/11 – Section B (Air Quality)

This section notes that residents of the proposed apartment complex will be exposed to dust from the adjacent agricultural processing facilities adjacent to the project site. However, the initial study concludes that the residents of the apartment complex will not be impacted by the dust because an 8-foot tall masonry wall with a double row of redwood trees will be installed along on the project site's south boundary, which will prevent dust-related impact to the residents. This section also notes that the residents of the proposed apartment complex can shut their windows during periods that the almond processing facility is in operation.

What studies have been conducted to show that the 8-foot tall wall and the two rows of redwood trees will actually reduce dust impacts to the residents of the proposed apartment complex? Is this design an acceptable means to prevent or lessen the amount of dust reaching the project site? Has the Butte County Agricultural Commissioner's Office and the Butte County Air Quality Management District reviewed and approved of the wall/tree design? What mechanism will be put into place by the City to ensure the maintenance and the replacement of the wall and the redwood trees by the landowner?

The initial study also notes that the residents of the proposed apartment complex choose to live there and by that virtue knowingly accept the fact that they will be exposed to dust and noise from the adjacent agricultural processing facilities. Will the residents be formally notified of their possible

exposure to dust and noise from the adjacent agricultural processing facilities prior to their signing a lease or rental agreement?

Page 19. Section I.7 (Land Use and Planning - Agricultural Impacts)

The south boundary of the project site is located along the Chico Greenline and numerous agricultural uses (orchards and agricultural processing facilities) are located nearby or adjacent to the site. The initial study notes that the project site is not located on prime agricultural soils as identified by the California Dept. of Conservation's Farmland Mapping and Monitoring Program, which identifies the site as "Urban and Built-up Land." Butte LAFCo Policy 2.13.5 states that land on the urban side of the Greenline shall not be considered prime agricultural land while all land on the other side of the Greenline will be considered prime agricultural land.

Among LAFCo's core purpose is the preservation of open space lands and prime agricultural lands. The Commission will exercise the powers to conserve prime agricultural land as defined in Section 56064 of the Government Code, open space land as defined in Section 65560 of the Government Code, and unique farmland and land of statewide importance defined in PRC 21060.1, pursuant to Butte LAFCo policies.

LAFCO will apply a heightened level of review when considering proposals for changes of organization or reorganization that are likely to result in the conversion of prime agricultural/open space land use to other uses or have an impact to adjoining/nearby agricultural uses. Only if the Commission finds that the proposal will lead to planned, orderly, and efficient development, will the Commission approve such a conversion. For purposes of this standard, a proposal leads to planned, orderly, and efficient development only if all of the following criteria are met (Butte LAFCo Policy 2.13.1):

- The land subject to the change of organization or reorganization is contiguous to either lands developed with an urban use or lands within the sphere and designated for urban development;
- The proposed development of the subject lands is consistent with the Sphere of Influence Plan, including the Municipal Service Review of the affected agency or agencies and the land subject to the change of organization is within the current 10-year Sphere of Influence boundary;
- The land subject to the change of organization is likely to be developed within five years. In the case of very large developments, annexation should be phased wherever feasible. If the Commission finds phasing infeasible for specific reasons, it may approve annexation if all or a substantial portion of the subject land is likely to develop within a reasonable period of time;
- Insufficient vacant non-prime or open space land exists within the existing agency boundaries or applicable 10-year Sphere of Influence that is planned and developable for the same general type of use; and,
- The proposal will have no significant adverse effect on the physical and economic integrity of other agricultural/open space lands.

If any LAFCo action is required, pursuant to Butte LAFCo Policy 2.13.4. in making the determination whether conversion will adversely impact adjoining prime agricultural, LAFCo will consider the following factors:

- a) The agricultural/open space significance of the subject and adjacent areas relative to other agricultural/open space lands in the region;
- b) The use of the subject and the adjacent areas;
- c) Whether public facilities related to the proposal would be sized or situated so as to facilitate the conversion of adjacent or nearby agricultural/open space land, or will be extended through or adjacent to any other agricultural/open space lands which lie between the project site and existing facilities;
- d) Whether natural or man-made barriers serve to buffer adjacent or nearby agricultural/open space land from the effects of the proposed development; and,
- e) Applicable provisions of the County's General Plan Agricultural Element, Open Space and Land Use Elements, applicable growth-management policies, or other statutory provisions designed to protect agriculture or open space.

The project has the potential to create a significant impact to the adjacent agricultural processing facilities due to residents of the proposed apartment complex complaining about dust and noise, which could ultimately result in the closing of the agricultural processing facilities. The initial study does not provide sufficient information on the ability of the proposed buffer (8-foot tall wall and the two rows of redwood trees) to prevent, or reduce to a less than significant level, dust and noise impacts to the residents of the apartment complex.

Page 19. Section J (Noise)

The initial study notes that the residents of the proposed apartment complex will not be subject to significant noise levels generated by the agricultural processing facilities adjacent to the project site. However, no evidence is provided, such as the results of a noise study, to support that conclusion. It is fairly common knowledge that agricultural processing facilities/uses can be significant noise generators that often go unnoticed for most of the year until harvest season begins.

Page 21.

Please note that there are two Section Ls on this page – Population/Housing and Public Services.

Page 21. Section L (Public Services)

This section states that development impact fees, which will be collected in conjunction with building permits, will support the ongoing provision of public safety, schools, parks, street facility maintenance, and other governmental services for the annexed area. However, development impact fees are levied on new development to cover the cost of infrastructure or facilities necessitated by that development and cannot be utilized to support the provision of ongoing, day-to-day governmental services. The City has informed LAFCo numerous times of the City's current, ongoing financial difficulties and LAFCo is well aware of the City's reluctance to annex any territory due to the impact an annexation would have on existing City service levels. The initial study should explain in detail how the City of Chico would be able to provide adequate, ongoing City services to the proposed apartment complex without affecting existing City service levels.

Page 24. Section N (Utilities)

This section states that all utilities (water, storm drain, sewer, gas, phone, and electric facilities) are currently located on or adjacent to the site and have available capacity to serve the proposed project, and that there are existing sewer lines in Pomona Avenue with capacity to provide sanitary sewer service to the project. These are blanket statements and the initial study does not provide the necessary level of analysis that demonstrates that these utilities actually have adequate capacity to serve the project site. The initial study should be revised to provide the needed level of analysis to ensure that these utilities have adequate capacity to provide the necessary service to the project site.

This section notes that there is an existing water line located on Pomona Avenue that has adequate capacity to serve the proposed project. The initial study does not note that the domestic water supplier for the project - the California Water Service Company – has an adequate water supply and pumping capacity to serve the project.

Distribution of the Initial Study

The initial study did not include a list showing what agencies were sent a copy of the initial study for review and comment. We recommend that the City ensure that the following agencies or organizations were sent a copy of the initial study for review and comment:

- Butte County Air Quality Management District
- Butte County Agricultural Commissioner's Office
- Butte County Public Works Department - Land Development Division
- Butte County Department of Development Services
- Butte County Farm Bureau

Thank you again for providing us the opportunity to review the initial study for the City's proposed Pomona Avenue annexation. We recommend that the initial study be revised pursuant to our comments and any other comments that may be received, and be recirculated for public review. This will ensure that the public, the City Council, and the Commission have the necessary information to make an informed, legally adequate environmental determination for the proposed annexation.

Sincerely,

Steve Betts

Steve Betts
Deputy Executive Officer