

**MEMORANDUM
LOCAL AGENCY FORMATION COMMISSION**

TO: Local Agency Formation Commission

FROM: Stephen Lucas, Executive Officer

SUBJECT: **Agenda Item 4.2 - LAFCo File 13-10 – City of Chico – Extension of Services – 1109 Stewart Avenue** (Continued from April 4, 2013 meeting)

DATE: April 24, 2013 for the meeting of May 2, 2013

Summary

The City of Chico requested approval to extend sanitary sewer services to a 0.3 acre unincorporated parcel (APN 043-242-052 - 1109 Stewart Avenue), that is not contiguous to the City's jurisdictional boundaries. The parcel is currently developed with an existing single-family dwelling unit and a new residential duplex currently being constructed. The Commission discussed this request at its April 4, 2013 meeting, received comments from the City of Chico, County of Butte and the landowner, and approved a motion of intent to conditionally approve the request.

Discussion

The proposal was fully discussed and evaluated in the Executive Officer's Report dated March 27, 2013 for the meeting of April 4, 2013. This report outlined the issues related to the request and provided the Commission with several options to proceed. After reviewing the report and associated testimony, the Commission weighed the following general directives of state law and Commission policy:

- Discourages the use of contract service extensions for the purpose of extending services to new development and will approve such extensions only under extraordinary circumstances; and
- Considers extension of service agreements to be a temporary measure, typically in response to an existing or impending public health and safety threat; and
- Considers extensions of service as a precursor to annexation.

The Commission found that the circumstances of this request do not support allowing a sewer service extension without annexation in that new development is proposed, there is no impending public health concern and the City has clearly indicated no plans for annexation at this time or in the near future. However, the Commission recognized the landowners predicament and considered the circumstances and actions of the City and County leading up to this request and sought a compromise that would allow the development to proceed while ensuring that an annexation application would be made within a reasonable period of time.

Action Requested: Approve the extension of City of Chico sewer service to the existing single family dwelling and single multi-family duplex under construction on APN 043-242-052 (1109 Stewart Avenue) subject to the terms and conditions described in Resolution No. 16 2012/13.

Attachments: 1. Resolution No. 16 2012/13
2. Landowner Petition for Annexation

DRAFT

**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 LIMITED USES ON 1109 STEWART AVENUE (APN 043-242-052), 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 1109 Stewart Avenue (APN 043-242-052), 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 on March 20, 2013, with 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 application is specifically being considered pursuant to Government Code Section 56133 which allows a city to extend services outside of its jurisdictional boundaries only with prior Commission approval and subject to any reasonable conditions the Commission deems appropriate to fulfill its purposes; and

WHEREAS, the subject parcel is not contiguous to the City of Chico's jurisdictional boundaries and the City of Chico states that annexation of the parcel is not feasible due to the non-contiguity; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658, set April 4, 2013, as the hearing date on this proposal; and

WHEREAS, the Executive Officer, pursuant to Government Code Sections 56133 and 56665, has reviewed this proposal and prepared a report dated March 27, 2013 for the meeting of April 4, 2013, 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 April 4, 2013, 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

WHEREAS, this Commission approved a Motion of Intent to conditionally approve the proposal and continued the item to its May 2, 2013 meeting for final action; 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) as the proposal is within the Chico urban area, consistent with adopted General Plan land use designations and the affected parcel is currently developed.

Section 2. Determinations:

- A. The proposal is assigned the following short form designation: 13-10 - City of Chico – Extension of Services – 1109 Stewart Avenue.
- B. 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.
- C. The City of Chico has stated the Master Sewer Plan has evaluated the need for sewer services to all parcels within the Chico Urban Area and the sanitary sewer system has adequate capacity to serve the subject parcel and a sewer line already extends to the subject parcel.
- D. 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 consistency, Butte County General Plan 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 March 27, 2013, for the meeting of April 4, 2013.
- E. The Commission policies generally 1) discourage the use of contract service extensions for the purpose of extending services to new development and will approve such extensions only under extraordinary circumstances; 2) considers extension of service agreements to be a temporary measure, typically in response to an existing or impending public health and safety threat; and 3) consider extensions of service as a precursor to annexation.
- F. The Commission determines that the circumstances related to the new development on the subject parcel do not represent any extraordinary circumstances or public health or safety concerns that support an unconditional service extension approval nor has the City provided assurances that the subject parcels will be annexed within a reasonable period of time if not required to do so.
- G. Given the circumstances of the request, the Commission will only authorize the City of Chico to extend sanitary sewer service outside the City’s boundary to the property located at 1109 Stewart Avenue (APN 043-242-052) in the unincorporated Chico area subject to Condition 3.B & C of this Resolution
- H. The purpose of the extension of services is to allow the City of Chico to provide public sanitary sewer service ONLY to the existing three bedroom single family dwelling and the partially constructed multi-family duplex (Units 1 & 2) on the subject parcel and identified on the site plan submitted to the Butte County Building Division attached as Exhibit 1 to this Resolution.
- I. This connection of the structures on this parcel to the City’s sanitary sewer system will help reduce the amount of nitrates entering the groundwater in the Chico area in accordance with the goals and policies of the Chico Urban Area Nitrate Compliance Plan and the Chico Area Nitrate Compliance Program.
- J. A Butte LAFCo Annexation Consent Agreement and Covenant has been signed by the current landowner (Ostrander) and will be recorded, which binds all future landowners to future annexation of the parcel to the City of Chico.

Section 3. Conditions requested by LAFCo:

- A. All LAFCo fees related to this request (LAFCO File No. 13-10) must be paid in full prior to the extension of service authorization becoming effective.
- B. The City of Chico shall submit a complete "island" annexation application and appropriate fees for the entire 22 acre/55 parcel Stewart Avenue island/DUC territory on or before November 1, 2013.
- C. Prior to the extension of services authorization becoming effective, the owner of the subject property (Ostrander) shall submit an annexation petition, Butte LAFCO annexation application and a \$20,000 deposit to Butte LAFCo for the processing of the annexation of the subject parcel and other parcels as may be necessary pursuant to state law or Butte LAFCO policies.
- D. It is the intent of the Commission for the City of Chico to submit an island annexation application for the entire Stewart Avenue island area as the most efficient manner to implement the annexation condition. Understanding that the City cannot be forced to adopt a resolution of application, the landowner annexation petition and application is a secondary assurance that the Commissions objectives are met. The landowner annexation petition will not be executed until and unless the City fails to submit an annexation application as described in Section 3.B above.

PASSED AND ADOPTED by this Local Agency Formation Commission of the County of Butte, on the 2nd day of May 2013, by the following vote:

AYES:

NOES:

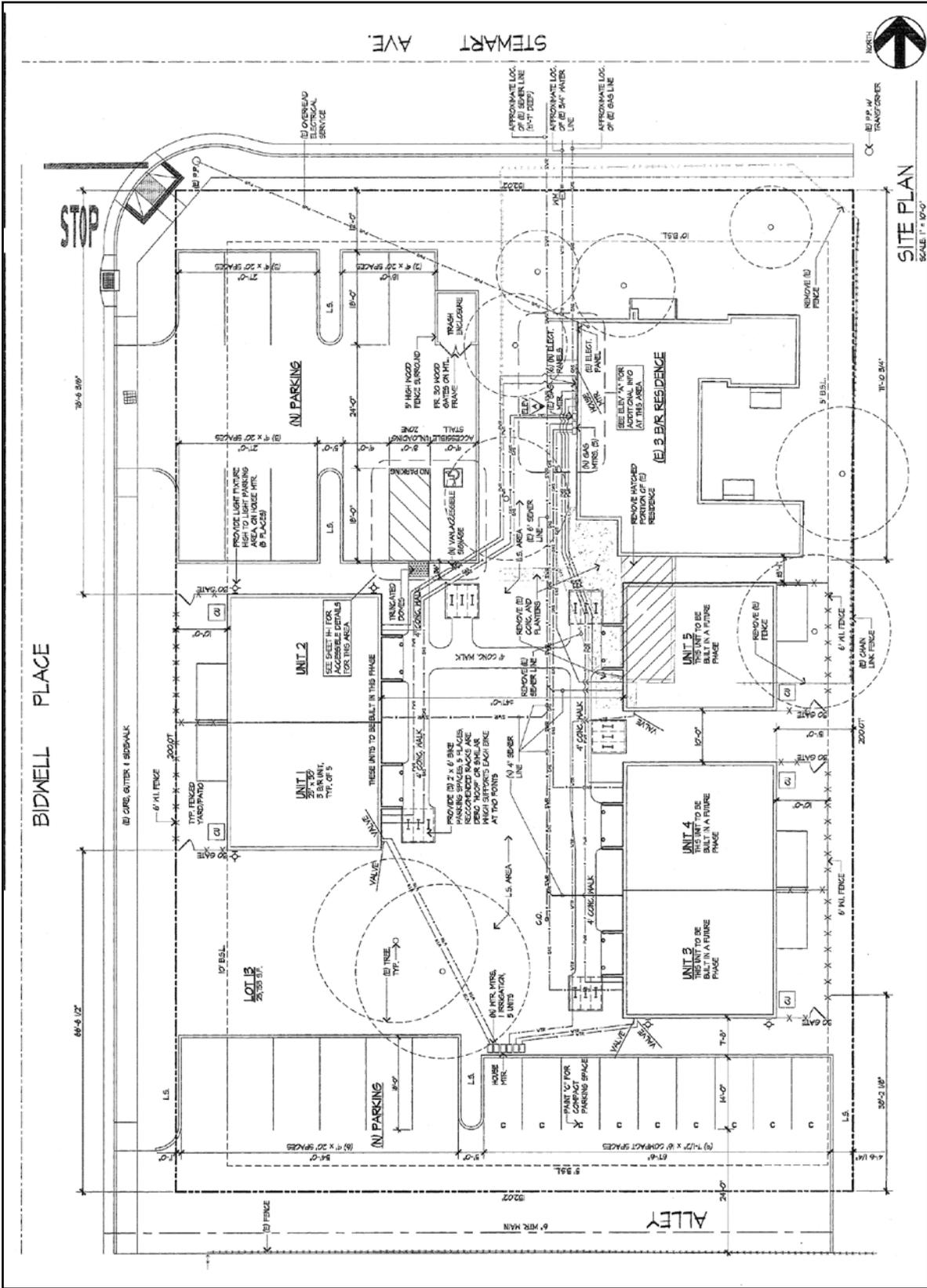
ABSENT:

ABSTAINS:

ATTEST:

Clerk of the Commission

CARL LEVERENZ, Chair
Butte Local Agency Formation Commission



OX - 10' TYP. W/ TRING COVER

SITE PLAN
SCALE 1" = 10'-0"

STEWART AVE

BIDWELL PLACE

ALLEY

STOP

LOT 18
25' x 55' 0"

LOT 19
25' x 55' 0"

LOT 20
25' x 55' 0"

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Petition for Proceedings Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000

The undersigned hereby petition(s) the Local Agency Formation Commission of Butte County for approval of a proposed change of organization or reorganization, and stipulate as follows:

1. This proposal is made pursuant to Part 3, Division 3, Title 5 of the California Government Code (commencing with §56000, Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000).
2. The specific change(s) of organization proposed (i.e., annexation to, detachment from, reorganization, etc.) is (are): _____
3. The boundaries of the territory included in the proposal are as described in Exhibit _____ attached hereto and by this reference incorporated herein.
4. This proposal is/is not (*circle one*) consistent with the sphere(s) of influence of the affected city and/or district(s). If the proposal is not consistent, a Sphere of Influence Amendment must be requested.
5. The reasons for the proposal (annexation, detachment, etc.) are: _____
6. The proposed change of organization or reorganization is requested to be made subject to the following terms and conditions: _____
7. The persons signing this petition have signed as: _____ registered voters _____ owners of land.
8. Do the petitioners include all landowners within the territory included within the proposal?
 yes no
9. If the formation of a new district is included in the proposal:
 - a. The principal act under which the district is proposed to be formed is: _____
 - b. The proposed name of the new district is: _____
 - c. The boundaries of the proposed new district are described in Exhibit _____ heretofore incorporated herein.
10. If the proposal includes the consolidation of special districts, the proposed name of the consolidated district is: _____
11. Butte LAFCO policies allow an application by petition only when the applicant provides satisfactory evidence that a diligent effort has been made to obtain a Resolution of Application from the affected public agency. Please indicate what effort was made to obtain such consent and the reasons why the public agency did not act on the applicants' request?

Wherefore, petitioners request that proceedings be taken in accordance with the provisions of §56000 et seq., of the California Government Code, and herewith affix signatures of the Chief petitioners (not to exceed three) as follows:

	Date	Signature	Printed Name	Residence Address	Assessor's Parcel #
1.	_____				
2.	_____				
3.	_____				