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SACRAMENTO LOCAL AGENCY  
FORMATION COMMISSION

DEVELOPMENT SERVICES  
DEPARTMENT

**CITY OF SACRAMENTO**  
CALIFORNIA

1231 I STREET  
SUITE 200  
SACRAMENTO, CA  
95814-2998

July 25, 2005

Peter Brundage, Executive Officer  
Sacramento Local Agency Formation Commission  
1112 I Street, Suite #100  
Sacramento, CA 95814

Dear Mr. Brundage:

**Subject:** Request by the City of Sacramento for a one-time exception to the Sacramento LAFCo policy related to concurrent processing of a Sphere of Influence Amendment and Annexation for the Greenbriar project.

The purpose of this letter is to respectfully request a one-time exception to the LAFCo policy for sequential processing relative to the Sphere of Influence Amendment and Annexation of the Greenbriar project. It is the City of Sacramento's request that LAFCo process the Sphere of Influence Amendment and the Annexation of the Greenbriar project concurrently. It is our understanding that Sacramento LAFCo has the discretion to make exceptions to this policy where special circumstances exist and the merits of the project warrant the exception. Additionally, we request your further consideration of the City of Sacramento acting as co-lead agency for the environmental impact report associated with this project.

There are a number of reasons why the City of Sacramento feels that Greenbriar Farms is a unique application and should be treated accordingly:

1) Greenbriar is a transit oriented development located adjacent to Metro Airpark and the City limits. The Greenbriar territory is recognized in the SACOG approved Regional Blueprint growth scenario as land suitable for urban development. Blueprint was established based on the application of Smart Growth principles to logical areas for urban expansion.

2) The proposed alignment of the Downtown-Natomas-Airport light-rail line (DNA line) runs directly through the Greenbriar territory. The DNA line would provide a transportation link between the Sacramento International Airport, Metro Airpark, North and South Natomas, Richards, the Railyards and the Central City Amtrak Depot (Please see attached map). Regional Transit is required to demonstrate increased ridership based on existing and future development to be competitive for limited federal assistance. The Greenbriar project would provide Regional Transit a significant boost in ridership numbers, thereby contributing to the funding of a crucial link in the region's transportation system.



July 25, 2005 Request by the City of Sacramento for a one-time exception to the Sacramento LAFCo  
Page 2 of 2 policy related to concurrent processing of a Sphere of Influence Amendment and  
Annexation for the Greenbriar project.

3) The City feels it is necessary to accelerate the Greenbriar project ahead of the larger Sphere of Influence amendment, for which we are preparing an application later this year to address population growth. Estimates from the General Plan update project an additional 200,000 more people living within the City of Sacramento over the next 25 years. While the City has an aggressive infill strategy, it is recognized that accommodating future populations will require additional new growth areas. The Greenbriar project would be of benefit to the City in providing a centrally located new growth area adjacent to the urban edge.

4) Greenbriar is consistent with City adopted Smart Growth principles per the City-County Natomas Joint Vision Memorandum of Understanding and SACOG regional Blueprint goals. The Greenbriar site is proximate to development on the south, east and western boundaries. Strategically the Greenbriar territory would be a logical extension of the City's North Natomas Community Plan area.

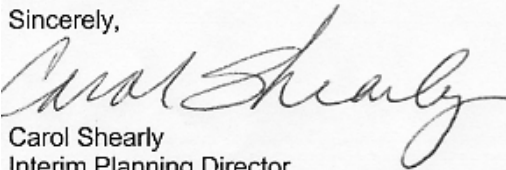
#### CEQA Lead Agency

The Notice of Preparation (NOP) for the Greenbriar project released on June 28, 2005 showed the City acting as sole lead agency. There were multiple references to "agencies" throughout the NOP as identified by your counsel Ms. Nancy Miller (July 11, 2005 letter to Tom Buford). However, the City's intent was to release the NOP as a co-lead agency with LAFCo due to the multiple land use entitlements associated with this project. This would allow LAFCo to be lead agency on the Sphere of Influence amendment and the City to be lead agency for the pre-zoning and annexation. The City desires to enter into a collaborative agreement through a Memorandum of Understanding with LAFCo, to further define roles and responsibilities.

City staff would be happy to discuss our position and explain the rationale behind our requests with you further. We appreciate your time and consideration regarding this important issue.

If you have any questions regarding this request, please contact Steve Peterson at 808-5981, or Ashley Feeney at 808-1941.

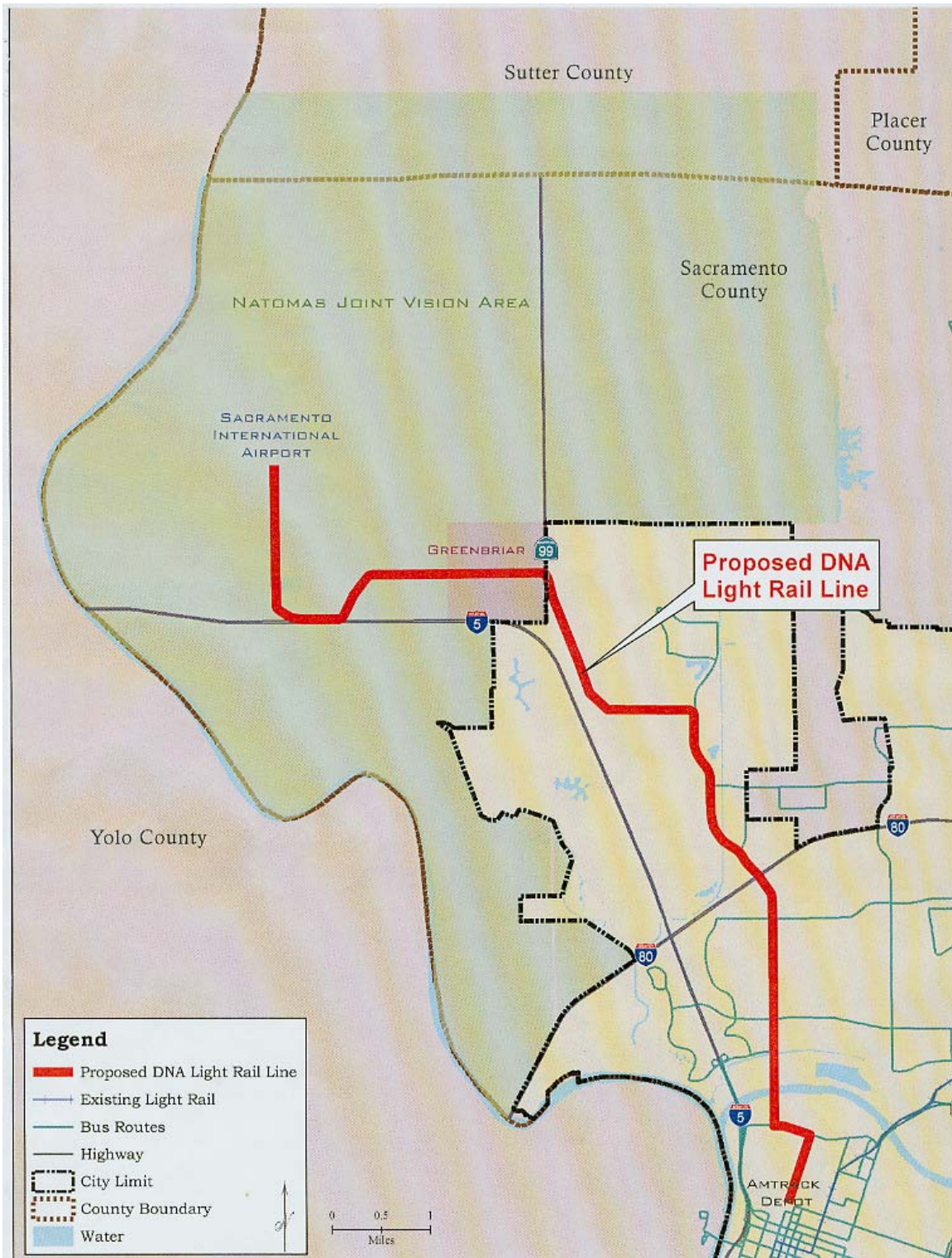
Sincerely,



Carol Shearly  
Interim Planning Director

Cc: Robert Thomas, City Manager  
Steve Peterson, Principal Planner





**DRAFT**

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN THE CITY OF SACRAMENTO  
AND SACRAMENTO COUNTY LAFCO  
REGARDING THEIR CO-LEAD AGENCY STATUS FOR  
THE GREENBRIAR PROJECT**

I. INTRODUCTION

The Greenbriar Project is designed as a transit-oriented, pedestrian-friendly development that would provide much needed housing near two of the largest employment centers in the regions: downtown Sacramento and the neighboring Metro Air Park. The Project site is located on 577 acres at the northwest intersection of State Route 99 and Interstate 5 in an unincorporated area of Sacramento County. Approval of the Project would include the following actions: pre-zoning of the property; amending the City of Sacramento General Plan; amending the City's existing sphere of influence; and annexing the property into the City. The applicant for the Greenbriar Project is Woodside Homes and AKT Development ("Applicant").

This Memorandum of Understanding ("MOU") is entered into in order to establish the City of Sacramento ("City") and the Sacramento County Local Agency Formation Commission ("LAFCO") as co-lead agencies for the preparation of an Environmental Impact Report ("EIR") for the Greenbriar Project ("Project"). This MOU is entered into this \_\_\_\_ day of \_\_\_\_\_, 2005, by and between the City and LAFCo.

II. LAFCO POSITION

The position of the Sacramento County LAFCo is that LAFCo should serve as lead agency rather than as a responsible agency for the preparation of the Project EIR because the Project involves amending the existing Sacramento sphere of influence ("SOI") to include the Project area and approving annexation of the Project property into the City of Sacramento. Because these two actions fall solely within the discretion of LAFCo, LAFCo's position is that it should be the lead agency, and that if it served as a responsible agency, it would not have the authority to modify mitigation measures to substantially lessen or avoid any significant effects resulting from the SOI or annexation.

Further, it is the position of the Sacramento LAFCo that, although LAFCo has the ability to concurrently process SOI Amendments and Annexation proposals, it is not a typical process and is not allowed under LAFCo policies unless certain factors are present.

**III. CITY OF SACRAMENTO POSITION**

The position of the City of Sacramento and the Applicant is that the City should serve as lead agency for the preparation of the EIR for the Project and that LAFCO should be the responsible agency. The City holds this position for the following reasons: the City is the public agency which has general powers and will be required to review the Project under its various land use development regulations and issue various discretionary approvals; and the City would be required to prezone the property prior to annexation. In the alternative, the City holds the position that the City and LAFCO may proceed as co-lead agencies for the purposes of preparing and approving the EIR for the Project.

Moreover, it is the position of the City and the Applicant that the circumstances of the Project merit concurrent processing of the SOI Amendment and Annexation by LAFCo. LAFCo has the discretion to approve the proposed SOI Amendments and Annexation concurrently, and has approved similar concurrent actions several times in the past. Specifically, LAFCo has approved such actions in 1990 for the Cosumnes River Reorganization, in 1992 for the Alder Creek Reorganization, and in 2003 for the Laguna West Reorganization. Further, other Local Agency Formation Commissions throughout California have also concurrently approved similar actions. For example, the Los Angeles County LAFCo, Riverside County LAFCo, and San Diego LAFCo have each processed SOI Amendments and Annexations concurrently on numerous occasions.

**THEREFORE, THE CITY AND LAFCO ENTER INTO THIS MOU TO ESTABLISH THEM AS CO-LEAD AGENCIES FOR THE PREPARATION AND APPROVAL OF THE GREENBRIAR PROJECT EIR.**

**IV. RESPONSIBILITIES OF LAFCO AND THE CITY OF SACRAMENTO REGARDING THEIR CO-LEAD AGENCY STATUS**

- A. Although the Sacramento County LAFCo generally acts as lead agency regarding SOI Amendments, LAFCo and the City agree, in this limited and unique circumstance, to act as co-lead agencies regarding the Greenbriar Project.
- B. LAFCo and the City will cooperate in the drafting of the EIR. This cooperative process will include regular meetings in order to maximize coordination between the City and LAFCo. LAFCo will employ an independent consultant who will review the EIR and submit comments. The Applicant is responsible for the costs incurred by LAFCo in employing this consultant.
- C. LAFCo will retain the authority to certify the Draft EIR as to the Sphere of Influence ("SOI") issues.

# DRAFT

- D. LAFCo will retain the authority for mitigating or avoiding the direct and indirect environmental effects of the SOI Amendment and Annexation. (CEQA Guidelines, § 15041.)
- E. The City will act first regarding the pre-zoning application and General Plan amendment.
- F. LAFCo will act on the SOI and annexation application, to be submitted by the City, after the City first acts on the pre-zoning application and general plan amendment. **[NANCY-I UNDERSTAND YOU DO NOT SUPPORT THIS POSITION.]**
- G. A public hearing to address comments and revisions on the Draft EIR will be held at least once with LAFCo after preparation of the Draft EIR.
- H. LAFCo and the City do not waive any rights with respect to their co-lead agency status.
- I. If a dispute arises regarding the MOU, the City and LAFCo agree to then meet and confer.

## V. SEVERABILITY

The terms of this MOU are severable. If any term or condition of this MOU is determined [by a court of competent jurisdiction] to be invalid, it shall be considered deleted and shall not invalidate any of the remaining terms and conditions.

The individuals signing below have the authority to commit the party they represent to the terms of this MOU, and do so commit by signing.

**FOR THE CITY OF SACRAMENTO**

\_\_\_\_\_  
Signature and Date

\_\_\_\_\_  
Name and Title

**DRAFT**

**FOR SACRAMENTO COUNTY LAFCO**

\_\_\_\_\_  
Signature and Date

\_\_\_\_\_  
Name and Title

**James P. Pachl**  
**Attorney at Law**  
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Tel: (916) 446-3978  
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jpachl@sbcglobal.net

THIS IS A FAX

DATE SENT: July, 2005

TO: Peter Brundage, LAFCO

NUMBER OF PAGES (including the cover sheet): 10

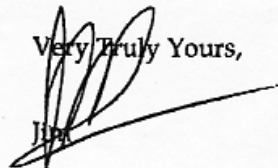
SUBJECT: Greenbriar

1. City Council Resolution 2001-518, and staff report 7/11/02, which has not been repealed or modified. It contains no expiration date. 6 pp.
2. pp. 3-30, 30-31 of 2003 Natomas Basin HCP FEIR, by City and Sutter County, lead agencies, certified by City Council May 13, 2003, which discusses Resolution 2001-518, Note that City states in FEIR Response that extensive planning, studies, etc, are required as part of Joint vision before any development approvals may be considered for any of these areas including Greenbriar. p. 3-31.
3. NBHCP Implementation Agreement, §3.1.1(a) which states that re-evaluation of NBHCP (Plan), and new Permits shall be required before any pre-zoning for any development outside the NBHCP Permit Areas.

I believe that approval of an SOI or annexation of Greenbriar before completion of the Joint Vision studies, SOI, etc would be inconsistent with Joint Vision, which the City admits in #2, above. Would be worthwhile to review Joint Vision document.

If Joint Vision is to be taken seriously, it is incumbent for LAFCO to declare that it will not consider any SOI or annexation outside City limits until Joint Vision studies have been completed and Joint Vision SOI, with mitigation conditions and conditions stated in Joint Vision, and other conditions, has been approved by LAFCO. The Greenbriar project, as described in the NOP omits a number of elements that Joint Vision require for new development (eg: 1 to 1 open space mitigation ratio in unincorporated Sacto County, etc) I can fax you a copy of Joint Vision if you need it to review.

Very Truly Yours,





**Brundage, Peter**

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**From:** NNatomas@aol.com  
**Sent:** Tuesday, July 12, 2005 4:27 PM  
**To:** peter.brundage@saclafco.org  
**Cc:** rtretheway@cityofsacramento.org; hfargo@cityofsacramento.org; ctooker@energy.state.ca.us; emulberg@yahoo.com  
**Subject:** Subject: August 3, 2005 - LAFCO Agenda Item #3

July 12, 2005

Mr. Peter Brundage  
Executive Officer  
Sacramento LAFCO

**Subject: August 3, 2005 - LAFCO Agenda Item #3 - Request by City of Sacramento for Waiver of LAFCO Policies for Greenbriar Development**

Thank you for your quick response to my request for an explanation of this item. The Natomas Community Association (NCA) strongly opposes the proposed waivers. The NCA respectfully requests that the LAFCO staff report inform the Commission of the NCA's position on Item #3, and its reasons for it.

The NCA has long supported implementation of LAFCO policies regarding annexations and SOI amendments. The NCA opposes waiver of these policies because of project size, and substantial and substantive project-related issues and potential impacts.

Substantive issues and impacts include: effects on Sacramento International Airport operations and long-term development; unnecessary conversion of important and prime agricultural land, effects on the Natomas Basin Habitat Conservation Plan; City Resolution 2001-518 which appears to prohibit annexation of Greenbriar thus complicating concurrent processing pending completion of the Joint Vision SOI Study; and potential conflicts with the City's Community and General Plans for the area. It is also important that the Greenbriar project not be perceived or treated as a "done deal," which may occur with a concurrent annexation/SOI process.

The waiver could have the unintended consequence of causing City to be designated as sole Lead Agency due to the CKH Act's prezone requirements. From the NCA's perspective, this could have negative consequences on our community and region.

It is important that the Greenbriar SOI amendment be fairly and impartially evaluated. The City has a conflict of interest and, as a strong and eager proponent of the SOI amendment and annexation, is already designing parks, roads, etc. The City has a conflict of interest which can only be remedied by LAFCO's rightful assumption of the Lead Agency role for the SOI consistent with LAFCO policies. Therefore, we strongly oppose any waiver of LAFCO's Lead Agency role.

Thank you for your consideration of this correspondence. Please include us on the mailing list for this project.

Sincerely,

Barbara Graichen, President  
Natomas Community Association.

7/12/2005

# MILLER, OWEN & TROST

A PROFESSIONAL CORPORATION

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PHILLIP L. ISENBERG  
OF COUNSEL

July 22, 2005

Tina A. Thomas  
Remy, Thomas, Moose & Manley  
455 Capitol Mall, Suite 210  
Sacramento, CA 95814

Via U. S. Mail

Re: Greenbriar Sphere of Influence Amendment, Prezoning, Annexation, General Plan Amendment, Zoning Amendment, Expansion of the North Natomas Community Plan Area, and Amendment to the North Natomas Community Plan

Dear Ms. Thomas:

Thank you for your letter dated July 7, 2005, regarding the above-referenced projects and for meeting with me on July 13, 2005. Your letter raises two questions to be addressed by the Commission. Your request was made prior to a filing of an application with LAFCo and after the filing of a Notice of Preparation by the City.<sup>1</sup>

First, you request that the City of Sacramento be the lead agency for all the proposed Greenbriar projects, which include a sphere of influence amendment ("SOI"), prezone, annexation, general plan amendment, zoning amendment, expansion of the North Natomas Community Plan Area and amendment to the North Natomas Community Plan. In my opinion, Sacramento LAFCo is the lead agency for the SOI amendment as discussed below. I do agree that the City is the lead agency for the subsequent annexation general plan amendment, and pre-zoning. Even though the City desires to combine its analysis into one EIR

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<sup>1</sup> Our request to the City of Sacramento to modify the Notice of Preparation to list Sacramento LAFCo as the lead agency for the SOI amendment is enclosed herewith.

covering all the contemplated actions, this does not divest, in my opinion, Sacramento LAFCo of its lead agency status for the SOI.

Second, notwithstanding our differences on the lead agency designation, you and I have discussed the possibility of "co-lead" status. If the Commission determines that it will waive its policy against concurrent SOI and annexation applications as you have requested, I agree that a co-lead option can be considered by the Commission.

Finally, your letter requests that LAFCo agree to waive its policy against concurrent processing of SOI and annexation applications for the Greenbriar project. I agree that the Commission, in its discretion, may waive this policy if it finds substantial justification. You have provided arguments for the Commission to consider. Peter Brundage will prepare a staff report for the August meeting at which time the Commission will consider both issues.

The following sets forth my opinion on the lead agency dispute between us and also details how a co-lead arrangement might work.

**A. Sacramento LAFCo is the Lead Agency for SOI Designations and Amendments**

1. *A SOI amendment is a "project" under CEQA and LAFCo is the only public entity with the authority to approve the SOI amendment.*

We are unaware of any authority that divests LAFCo of its lead agency status for the sphere of influence amendment in this circumstance. A sphere of influence amendment is a project by LAFCo under CEQA. (63 Ops. Cal. Atty. Gen. 758, Opinion No. 80-610, p. 9 (1980).) The Attorney General opined that "the amendment of a sphere of influence by LAFCO may require the filing of an EIR or negative declaration in compliance with CEQA. The key determination is whether such action in a particular case could possibly have a significant effect on the environment."<sup>2</sup> (*Id.*)

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<sup>2</sup> Local Agency Formation Commissions ("Commissions") were created in part because the Legislature recognized that "the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services." (Gov

Sacramento LAFCo, as a regional entity, is the only local agency provided with the statutory responsibility to adopt a sphere of influence amendment.<sup>3</sup> (Gov. Code, § 56425, subd. (a).) Under the definition of lead agency status, LAFCo is the only entity that may be designated as the lead for a SOI amendment. Sacramento LAFCo policies, our previous correspondence, the Attorney General's opinion and the CEQA Guidelines support the designation of Sacramento LAFCo as the lead agency for the sphere of influence amendment. (Sacramento LAFCo Policies, § IV, p. IV-7; see September 20, 2002, Letter from Peter Brundage to Brad Shirhall; see October 15, 2002, Letter from Nancy C. Miller to Brad Shirhall; see October 22, 2002, Letter from Tina A. Thomas to Nancy C. Miller; CEQA Guidelines § 15051.)

Sacramento LAFCo sphere of influence applications have been consistently processed with Sacramento LAFCo acting as lead agency. Sacramento LAFCo's status as lead agency for sphere of influence amendments was recognized by the City in previous SOI amendment requests. All other cities in the County recognize this as well. You have been aware of LAFCo's position on this issue as we previously exchanged correspondence in 2002 in connection with the proposed West Lakeside Project. That correspondence is enclosed herewith.

2. *LAFCo policies state that LAFCo is the lead agency for SOI amendments.*

LAFCo's policies provide that Sacramento LAFCo acts as a lead agency: 1) in a sphere of influence change and 2) in an annexation where no rezoning has been undertaken by the City prior to LAFCo approval. (Sacramento LAFCo Policies, § IV, p. IV-7.) In my opinion, the phrase "where no rezoning has been

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Code, § 56001.) The Legislature granted Commissions the power to develop and determine spheres of influence "[i]n order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities . . ." (Gov. Code, § 56425.) The Commissions were instructed to "develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere." (*Id.*) No other entity has this authority. To allow a City to be the lead agency for a decision that affects the logical formation and determination of local agencies in the region undermines the reasons why Sacramento LAFCo has been delegated decision making authority for sphere of influence amendments.

<sup>3</sup> Sacramento LAFCo, as the agency with exclusive powers to approve an SOI amendment, may not delegate its lead agency status. (See *Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 907, 907.)

undertaken by the city prior to LAFCo approval” applies only to the circumstance where an annexation is before the LAFCo and does not apply to a sphere of influence amendment. Prezoning is not a process undertaken in connection with a sphere of influence amendment.

In addition, as you noted in your letter, prezoning is now a prerequisite to annexation. (Gov. Code, § 56375, subd. (a)(2); *City of Agoura Hills v. Local Agency Formation Comm.* (1988) 198 Cal.App.3d 480, 491.) By designating the LAFCo as a responsible agency for annexations where prezoning is done, the CEQA Guidelines recognize that prezoning is completed only in connection with an annexation and not with a sphere of influence amendment. (CEQA Guidelines, § 15051(b)(2).)

3. *The City’s desire to combine a SOI amendment with prezoning, annexation, general plan amendment, zoning amendment, expansion of the North Natomas Community Plan Area and amendment to the North Natomas Community Plan for the Greenbriar Project does not shift lead agency status to the City.*

You suggest that the project includes not only the SOI amendment, but also an annexation, prezone, general plan amendment, zoning amendment, expansion of the North Natomas Community Plan Area and amendment to the North Natomas Community Plan, and that the City would then be the lead agency.<sup>4</sup> Not only do LAFCo policies prohibit this, but state statutes are clear that lead agency designation cannot be shifted to another agency unless that agency has a substantial claim over the “project” in question. (Sacramento LAFCo Policies, § IV, p. IV-7; CEQA Guidelines § 15051.) A project is “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment” and “an activity directly undertaken by any public agency . . . .” (CEQA Guidelines, § 15378.) Under a SOI amendment, no other agency has such

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<sup>4</sup> Where two or more public agencies will be involved with a project, the determination of which agency is the lead agency is based on several criteria, including whether the project will be carried out by the public agency, the level of responsibility of the agency for supervising or approving the project as a whole, and which agency will act first on the project. (CEQA Guidelines, § 15051.) While the City may be acting first on other portions of the project—such as in an annexation where prezoning is required—Sacramento LAFCo will act first, and will be the only one to act on the application for the sphere of influence amendment.

a claim because only the LAFCo may adopt the SOI. (Gov. Code, § 56425, subd (a).) Combining the SOI project with an annexation, pre-zoning, general plan amendment, zoning amendment, and tentative map approval does not shift lead agency status. You have merely combined separate projects which under the CEQA Guidelines, in my opinion, requires either a tiering approach or concurrent EIRs. (CEQA Guidelines, §§ 15378; 15385; Pub. Res. Code, § 21068.5.)

### **B. Co-Lead Agency Compromise**

In your letter and during our recent meeting, you and I discussed the possibility of the City of Sacramento and Sacramento LAFCo agreeing to be “co-lead” agencies. While CEQA recognizes only one lead agency for a project (CEQA Guidelines, § 15050), some jurisdictions have allowed co-lead agencies by agreement. As a compromise, I can recommend to Sacramento LAFCo to participate in a co-lead agency agreement pursuant to CEQA Guidelines section 15051, subsection (c), provided that such an agreement provides Sacramento LAFCo with the following: 1) Sacramento LAFCo will first certify the EIR for the sphere of influence amendment; 2) Sacramento LAFCo can adopt its own independent mitigation measures; 3) Sacramento LAFCo would work with the City to review and prepare the EIR and the City would reimburse Sacramento LAFCo for its costs; and 4) if any disagreement arises, the City and Sacramento LAFCo would meet and confer to reach agreement, but both must reserve their rights as lead agencies.<sup>5</sup>

### **C. Concurrent Consideration of the Annexation and the Sphere of Influence Amendment**

Sacramento LAFCo may, upon request, consider the annexation and the sphere of influence amendment concurrently. However, annexation “cannot be approved until LAFCO has established and duly considered relevant spheres of influence.” (*City of Agoura Hills v. Local Agency Formation Com.* (1988) 198 Cal.App.3d 480, 491.) Thus, if the City proceeds with the annexation prior to obtaining an amendment to its sphere of influence, it will do so at its own risk.

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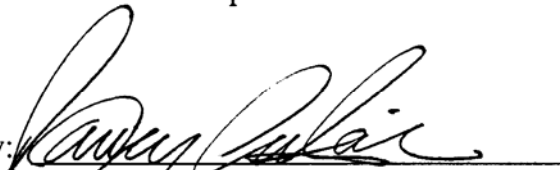
<sup>5</sup> Alternatively, as you suggested, a designation of the lead agency from the Office of Planning and Research is possible. (CEQA Guidelines § 15053.)

Tina A. Thomas  
July 22, 2005  
Page 6 of 6

As you know the matter has been scheduled for the August Commission meeting. If you have any questions or comments before that time, please do not hesitate to contact me. I look forward to further discussing this issue with you.

Very truly yours,

MILLER, OWEN & TROST  
A Professional Corporation

By:   
Nancy C. Miller

cc: Peter Brundage

Enclosures

# MILLER, OWEN & TROST

A PROFESSIONAL CORPORATION

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PHILLIP L. ISENBERG  
OF COUNSEL

July 11, 2005

Tom Buford  
City of Sacramento  
Development Services Department  
Planning Division  
1231 I Street, Room 300  
Sacramento, CA 95814-2998

Via U.S. Mail

Re: Notice of Preparation for an Environmental Impact Report (EIR) for the  
Greenbriar (PO5-069) Project

Dear Mr. ~~Buford~~ *Buford*,

Thank you for the opportunity to respond to the above referenced of Notice of Preparation ("NOP"). This firm represents the Sacramento County Local Agency Formation Commission ("LAFCo"). This letter serves as a request to modify the NOP to clarify that LAFCo is the lead agency for the sphere of influence amendment. LAFCo's status as lead agency for sphere of influence amendments was recognized by the City in past NOPs for SOI requests. Further this request is consistent with LAFCo policies, our previous correspondence to you in September and October of 2002 and CEQA guidelines. (Sacramento LAFCo Policies, § IV, p. IV-7; see attached correspondence: CEQA Guidelines § 15051.) To my knowledge, Sacramento LAFCo sphere of influence applications have been consistently processed with LAFCo acting as lead agency.

The NOP creates confusion by referring on page one to "the lead agency" and referring on page three to multiple "lead agencies." The NOP should clarify that LAFCo serves as the lead agency for amendments to spheres of influence and the City serves as the lead agency for the annexation and rezoning and general plan amendment. It is my understanding that we would both certify the document for our respective purposes.

I suggest that instead of creating one EIR for many projects, concurrent EIRs could be prepared by the City and LAFCo. This strategy will allow the sphere of influence amendment to be completed in a more efficient manner and may remove the criticism that the EIR seeks to cover multiple projects in one document. Further it will allow us to move the SOI in a timely manner ahead of the City's processing. Alternatively LAFCo can utilize the EIR prepared by the City but retain authority to approve and certify it for the SOI amendment.



July 11, 2005  
Page 2 of 2

Further, this letter serves to express concern regarding the timing of the Notice of Preparation because LAFCo has not received an application from the City of Sacramento. We have received notice that the City intends to request concurrent processing of the SOI and annexation but that is not scheduled to be heard until August.

I understand the need for efficiency with the preparation of environmental documents and we should meet to discuss how the application could be expedited and to address the CEQA concerns.

Very truly yours,

MILLER, OWEN & TROST  
A Professional Corporation

By: 

Nancy C. Miller

cc: Peter Brundage

Enclosures

**REMY, THOMAS, MOOSE and MANLEY, LLP**  
**ATTORNEYS AT LAW**

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AMY R. HIGUERA

July 7, 2005

Nancy Miller  
Commission Counsel  
Sacramento Local Agency Formation Commission  
1112 I Street, Suite 100  
Sacramento, CA 95814

Re: Greenbriar: Prezoning, Sphere of Influence Amendment, and Annexation Proposal

Dear Ms. Miller:

*NANCY*

We are writing on behalf of the project applicant for the Greenbriar development proposal. As you are aware, our client has filed an application with the City of Sacramento for an innovative, transit-oriented, and pedestrian-friendly development designed to provide much needed housing near two of the largest employment centers in the region: downtown Sacramento and the neighboring Metro Air Park. The City's first action would be to prezone the property. Ultimately, of course, Sacramento Local Agency Formation Commission would have to amend the City's existing sphere of influence (SOI) and approve the City's request to annex the property into the City before the City may approve the Greenbriar project. The purpose of this letter is to address two questions that have arisen in conjunction with the processing of the project by LAFCo. First, which agency—Sacramento LAFCo or the City—should serve as lead agency in preparing an environmental impact report (EIR) pursuant to the California Environmental Quality Act (CEQA)? Second, whether Sacramento LAFCo should concurrently process the City's request for a sphere of influence amendment and annexation? As we explain below, we recommend that the City serve as lead agency in the preparation of the EIR. Alternatively, we recommend that the City and Sacramento LAFCo serve as co-lead agencies in the preparation of that document. We also recommend that Sacramento LAFCo concurrently process the City's request for a sphere of influence amendment and annexation.

**A. City of Sacramento Should Be Lead Agency**

CEQA contemplates projects that will require the approval of more than one governmental agency, and generally requires that one agency be selected to take the lead on environmental review. CEQA designates the “lead agency” as the “public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.” (Pub. Resources Code, § 21067.) “Responsible agencies” are those public agencies, “other than the lead agency which has responsibility for carrying out or approving a project.” (Pub. Resources Code, § 21069.) The CEQA statute itself provides very little guidance as to how to select a lead agency when multiple agencies will have significant approval authority over a proposed project.<sup>1</sup> But the Office of Planning and Research (OPR), in promulgating the CEQA Guidelines,<sup>2</sup> has provided considerable direction for agencies in how to resolve a potential lead agency dispute.

Under the CEQA Guidelines, when two or more public agencies will be involved in a project, the determination of which agency will serve as the lead agency is governed by the following criteria:

- (a) If the project will be carried out by a public agency, that agency shall be the lead agency even if the project would be located within the jurisdiction of another public agency.
- (b) If the project is to be carried out by a nongovernmental person

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<sup>1/</sup> The Public Resources Code merely provides that if a genuine dispute arises over which public agency should act as lead agency then the applicant may submit the question to the Office of Planning and Research (OPR), who may designate within 21 days, the lead agency for the project “giving due consideration to the capacity of such agency to adequately fulfil the requirements of this division.” (Pub. Resources Code, § 21165.) OPR has adopted detailed regulations for processing such disputes. (See Cal. Code Regs., tit. 14, § 16000 et seq.) Ultimately, however, we strongly believe that the City of Sacramento and Sacramento LAFCo can reach agreement between themselves regarding who should serve as lead agency for this project and need not ask OPR to intervene.

<sup>2/</sup> The CEQA Guidelines are set forth in the California Code of Regulations at title 14, section 15000 et seq.

or entity, the lead agency shall be the public agency with the greatest responsibility for supervising or approving the project as a whole.

- (1) The lead agency will normally be the agency with general governmental powers, such as a city or county, rather than an agency with a single or limited purpose such as an air pollution control district or a district which will provide a public service or public utility to the project.
- (2) Where a city rezones an area, the city will be the appropriate agency for any subsequent annexation of the area and should prepare the appropriate environmental document at the time of the rezoning. The local agency formation commission shall act as a responsible agency.
- (c) Where more than one agency equally meet the criteria in subsection (b), the agency which will act first on the project in question shall be the lead agency.

(CEQA Guidelines, § 15051.)

Under three of these subdivisions in CEQA Guidelines section 15051—(b)(1), (b)(2), and (c)—the City of Sacramento appears to be the appropriate lead agency.<sup>3</sup> First, the City of Sacramento is a agency with general powers. (CEQA Guidelines, § 15051, subd. (b)(1).) As such, the City will be required to review the project under its various land use development regulations and issue various discretionary approvals. Employing similar logic, the courts have concluded, in choosing between two agencies that might potentially serve as the lead agency, that the agency with the broadest powers as well as the broadest “perspective and expertise,” should serve as lead agency because “the underlying purpose of an EIR is to analyze and inform regarding adverse effects to the

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<sup>3</sup>/ The forth subdivision, subdivision (a), is irrelevant in this case, in as much as th that section applies to projects that will be carried out by public agencies, and the Greenbriar development is proposed by and would be carried out by a private party.

environment as a whole.” (*City of Sacramento v. State Water Resources Control Board* (1992) 2 Cal.App.4th 960, 973.)

Second, in this instance, the City of Sacramento would be required to prezone the Greenbriar property prior to annexation in order to assure that, if LAFCo approves annexation, then the property has some appropriate zoning under the City of Sacramento’s code. Moreover, pre zoning is a prerequisite to annexation. (Gov. Code, § 56375, subd. (a)(2); see also Sacramento LAFCo Policies, § IV.I, p. IV-12 (LAFCo will not approve city annexation requests for territory that is not pre zoned).) Under CEQA Guidelines section 15051, subdivision (b)(2), a city preparing a prezone should act as the lead agency, and the local agency formation commission should act as the responsible agency. This makes a lot of sense for the same reasons described above—the City’s pre zoning is just the first step in a process that could involve multiple discretionary actions. The City’s role in reviewing and approving the project will in fact be enduring and long term. By way of contrast, LAFCo’s role in reviewing and approving the Greenbriar development project, while very important, will be initial and short term.

Finally, as noted above, the City of Sacramento will need to prezone the Greenbriar property before LAFCo takes any action. Under CEQA Guidelines section 15051, subdivision (c), all other factors being equal, the agency which will act first on the project in question shall be the lead agency.

LAFCo’s own rules are very similar to the CEQA guidelines, and provide that LAFCo will be the lead agency where the primary decision relates to a change of organization or reorganization or sphere of influence, LAFCo is the first agency in time to act, where the applicant agency is unable to act as lead agency, or where there are no other underlying land use approvals involved. (Sacramento LAFCo’s Policies, Standards and Procedures for LAFCo (Sacramento LAFCo Policies), § IV.F, pp. IV-6 to IV-7.) Under LAFCo’s rules, LAFCo would act as lead agency in a sphere of influence change or annexation “*where no pre zoning has been undertaken by the city prior to LAFCo approval.*” (Sacramento LAFCo Policies, § IV.F, p. IV-7, emphasis added.) “LAFCo will act as the Responsible Agency in all other situations.” (*Ibid.*) Thus, for the reasons set out above, LAFCo’s own rules recognize that the City would be the appropriate lead agency because (i) the City will act first to prezone the property, (ii) there are many land use approvals involved in the development of Greenbriar, (iii) the City is able to act as lead agency, and (iv) the primary decisions as to the development of Greenbriar do not relate to the change in the sphere of influence or reorganization, although of course those are important decisions. (Sacramento LAFCo Policies. § IV.F. p. IV-7 )

**B. LAFCo and City Could Establish a Co-lead Agency Process By Agreement**

As explained above, we believe that the City of Sacramento is the appropriate lead agency over environmental review of the Greenbriar development project. But when two agencies both believe that they are the appropriate lead agency in light of the criteria set out in the CEQA Guidelines, there are two options. First, the project proponent may submit the matter to OPR for ultimate resolution. (This option is discussed in footnote 1 above.) Second, the two agencies may by agreement designate an agency as the lead agency or may provide for a cooperative lead agency arrangement.<sup>4</sup> CEQA Guidelines section 15051, subdivision (d), provides specifically as follows: "Where the provision of subsections (a), (b), and (c) leave two or more public agencies with a substantial claim to be the lead agency, the public agencies may by agreement designate an agency as the lead agency. An agreement may also provide for cooperative efforts by two or more agencies by contract, joint exercise of powers, or similar device." Under this provision, the City and LAFCo could agree to act as co-lead agencies. While this sort of cooperative relationship is not common between local agencies, it is very common in the context of projects requiring both federal and state approval. The City and LAFCo could work out the same sort of arrangement that is commonly adopted between state and federal agencies preparing a joint EIR/EIS. (See, e.g., CEQA Guidelines, § 15220.) We would be amenable to this sort of arrangement if LAFCo does not agree that the City should act as lead agency, and we believe that the City would likewise be amenable.

**C. LAFCo Should Consider Sphere of Influence and Annexation Concurrently in this case.**

LAFCo has discretion to approve the proposed amendments to the City of Sacramento's SOI and to approve the annexation concurrently. While in general LAFCo's rules indicate a preference for processing SOI changes and annexation requests in sequence (see generally Sacramento LAFCo Policies, § IV.A, p. IV-1), LAFCo may

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<sup>4</sup>/ The record, of course, must demonstrate that the two agencies both have a strong claim for lead agency status. Where one agency has a vastly superior claim over the other, that agency cannot by agreement convey the lead agency status on the other agency (See *Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892, 907 (citing *Kleist v. City of Glendale* (1976) 56 Cal.App.3d 770, 779, for the general proposition that a lead agency cannot delegate its duties under CEQA to another agency or body in condemning the Department of Water Resources failure to take the lead agency role in the Monterey Agreement environmental review).)

and in fact has in the past processed several such requests concurrently where the circumstances merit it.

The circumstances in this case merit concurrent processing of the SOI amendment and annexation for the Greenbriar project. The Greenbriar project will be a very valuable asset to the City of Sacramento and the region as explained below, and the timing of the project is critical to securing some of the project's benefits.

First, the annexation of the Greenbriar project will help facilitate and fund the Downtown-Natomas-Airport light-rail line (DNA line), which will be an incredible asset to the region. The proposed alignment for the DNA line runs through the Greenbriar property. From a planning perspective, of course, it makes little sense for the line to pass through a large swath of undeveloped agricultural land. This has fiscal implications as well. Right now, Regional Transit (RT) is actively participating in what the Federal Transit Administration (FTA) calls the "New Starts Development Process." To be competitive in the program, and qualify for federal assistance, the DNA line needs to increase ridership above the current projections. Potential riders from Greenbriar cannot be included until the development is approved. Having an approved project at Greenbriar, which requires SOI amendment and annexation, will greatly increase ridership projections, making the DNA line much more competitive for critical federal funding. This funding is available on a first-come, first-served basis, so it is important for the DNA line increase its competitiveness as soon as possible.

Second, the proposal for the Greenbriar development emulates the growth principles of Sacramento Area Council of Governments' Blueprint. The seven growth principles established by the Blueprint are Transportation Choices, Mixed-Use Development, Compact Development, Housing Choice and Diversity, Use of Existing Assets, Quality Design, and Natural Resources Conservation. The proposal for the Greenbriar development is tailored to foster the Blueprint's smart growth principles.

- The Blueprint's Transportation-Choices growth principle encourages development designs that promote use of various modes of transportation—such as walking, bicycling, riding buses, light rail, or train, and car-pooling—to reduce single-occupant automobile trips. The project accomplishes these goals by locating high-density residential development within a quarter mile of the proposed light rail station. In order to further encourage pedestrian and bicycle transportation, the plan has been laid out in a predominantly grid street pattern. In addition, pedestrians and cyclists can employ green areas along the proposed detention

basins to quickly reach transit and commercial uses.

- The Blueprint's Mixed-Use Development principle promotes design of vital neighborhoods that include homes, retail space, offices, and light-industrial use. This configuration of mixed uses contributes to a sense of community and motivates residents to interact as a community, walking and biking to nearby destinations. The project incorporates mixed-use development into its design by offering retail space, commercial space, multi-family attached homes, and higher-density, single-family detached homes. The project also offers vertical and horizontal mixed use as well as residential-over-retail vertical mixed use.
- The Blueprint's Compact Development principle fosters compactly built environments that use space in an efficient and aesthetically pleasing way. In one community, the project offers residential, commercial, and retail space as well as parks and transportation, grouped to encourage walking, biking, and using public transit. The project intersperses aesthetically pleasing park and green space throughout the design to encourage community connectivity.
- The Blueprint's Housing Choice and Diversity principle creates varied housing opportunities to meet the public's wide array of housing needs. The project offers a wide variety of lot sizes and configurations, including traditional lots (50x100, 45x100, 35x70), lane loaded lots (40x90, 35x80, 40x60, 28x68), 45x90 'Z' Lots, 10-unit cluster lots, townhomes, apartments, and senior housing.
- The Blueprint's Use of Existing Assets principle suggests making better use of existing public infrastructure, including the development on infill or vacant lands. The project is situated adjacent to Metro Air Park between I-5 and State Highway 99, in an area surrounded on three sides by development and proposed development.
- The Blueprint's Quality Design principle encourages the use of design details such as setbacks, garage placement, sidewalks, landscaping, aesthetic building design, and public right of way to create an attractive community where residents are drawn to their environment and want to walk or bike to neighborhood services. The project includes a pedestrian friendly street design, with sidewalks and tree-lined streets. It includes a high degree of garage mitigation and architecture-forward design and urban design at the project core to enhance pedestrian experience and encourage activity.



- Finally, the Blueprint's Natural Resource Conservation principle encourages the design and use of open space within development projects in order both preserve that space and to improve the quality of life of community residents by providing an outdoor destination for members of the community. The project features a town green adjacent to and north of the light rail station at the project's core. The project includes parks sized and spaced to encourage connectivity and resident use and greenbelts at the project's perimeter. The design also incorporates an open space amenity for walking and biking.

Third, the Greenbriar project will provided much needed housing in the City near existing and proposed employment centers. Greenbriar is ideally situated near two major existing and proposed employment centers: (1) downtown Sacramento and (2) Metro Air Park. It will be connected to both by the proposed DNA line. To facilitate housing through compact development, a wide variety of housing is proposed at densities higher than most in North Natomas. About 3,700 units are proposed. This will result in a significant number of affordable housing units under the City's inclusionary housing requirements. The City has determined to limit its inclusionary housing requirements to new growth areas, but those areas have consistently developed at levels below target densities. Greenbriar will make a substantial contribution towards satisfying the City's regional housing needs.

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We would be happy to provide you with any additional information in regards to these issues or to discuss them further. Thank you for your consideration, and we look forward to meeting with you.

Sincerely yours,



Tina A. Thomas



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DEVELOPMENT SERVICES  
DEPARTMENT

CITY OF SACRAMENTO  
CALIFORNIA

1231 I STREET  
ROOM 300  
SACRAMENTO, CA  
95814-2998

PLANNING DIVISION

RECEIVED

JUN 29 2005

SACRAMENTO LOCAL AGENCY  
FORMAT ON COMMISSION

ENVIRONMENTAL  
PLANNING  
SERVICES  
916-808-5842  
FAX 916-264-7185

**DATE:** June 28, 2005  
**TO:** Interested Persons  
**FROM:** City of Sacramento, Development Services Department  
**SUBJECT:** NOTICE OF PREPARATION FOR AN ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE GREENBRIAR (P05-069) PROJECT.

**Introduction:** The City of Sacramento, Development Services Department, will be the Lead Agency for the preparation of an Environmental Impact Report (EIR) for the Greenbriar Project (P05-069). The City needs to know the views of all interested persons and agencies regarding the scope and content of the environmental information to be contained in this environmental document. Agencies are requested to identify any environmental information which is important to their statutory responsibilities in connection with the proposed project. Agencies will use this EIR when considering permits or approvals for this project. The NOP is being circulated/distributed for a 30-day public review period commencing on June 28, 2005 and ending on July 29, 2005. Written comments regarding the Notice of Preparation must be submitted **NO LATER THAN 5:00 p.m., Friday, July 29, 2005** to: Tom Buford, City of Sacramento, Development Services Dept., 1231 I Street, Room 300, Sacramento, CA 95814.

**Project Description:** The Greenbriar project is located at the northwest corner of Interstate 5 and State Highway 99, in the unincorporated portion of Sacramento County. The site consists of 577± gross acres (Assessor's Parcel Numbers: 201-0300-049, 067, 068, 069, 070, 071, 076, 077, 079, 080, 081, 083 and 085.) The project seeks to a change in the City's sphere of influence, annexation to the City of Sacramento, and the necessary entitlements to allow for the development of approximately 3,723 housing units and approximately 30 acres of retail and commercial space would be constructed on site. An 11.3-acre elementary school would be provided in the southeastern portion of the project site. A total of 8 neighborhood parks (approximately 59 acres) would be provided throughout the community and would be connected by the central water feature and pedestrian paths and trails.

**Probable Environmental Effects:** The technical sections of the Draft EIR will describe the existing conditions in the proposed project area and surrounding lands. Relevant federal, State and local laws and regulations, including City of Sacramento General Plan policies, will be summarized. The EIR will include the findings of a traffic impact study to be conducted as part of the CEQA process to analyze the potential impacts from the traffic generated by the proposed project, both on a project-specific level and on a cumulative level. Mitigation measures will be developed, if possible and feasible, for all impacts.

**Scoping Meeting:** A public scoping meeting will be held during the 30-day NOP public review period to provide the public with an opportunity to provide comment on the content of the EIR. The scoping meeting will be held at the following date, time and location:

Date: Wednesday, July 13, 2005  
Time: 6:00 p.m.  
Location: Natomas Service Center, 3291 Truxel Road, Suite 26, Sacramento

Project Materials for the Greenbriar (P05-069) project are available for review at 1231 I Street, Room 300, Sacramento CA 95814



DEVELOPMENT SERVICES  
DEPARTMENT

Planning Division

**CITY OF SACRAMENTO**  
CALIFORNIA

1231 I STREET  
ROOM 300  
SACRAMENTO, CA  
95814-2998

PLANNING  
916-808-5381  
FAX 916-808-5328

**Date:** June 28, 2005  
**To:** Responsible Agencies, Interested Persons, and Organizations  
**From:** Tom Buford, Associate Planner, City of Sacramento  
**Subject:** **Notice of Preparation of a Draft Environmental Impact Report for the Greenbriar Project (Project P05-069)**  
**Public Review Period:** June 28, 2005 to July 29, 2005

#### Introduction

The Notice of Preparation for the Greenbriar project (P05-069) is attached.

#### Project Area

The project is located in the unincorporated portion of Sacramento County, on approximately 577 acres located at the northwest intersection of State Route 99 (SR 99) and Interstate 5 (I-5). The project site is located outside the current Sphere of Influence for the City of Sacramento. The site is bordered by agricultural and rural residential land uses to the west and north, I-5 and agricultural lands to the south, and SR 99 and a new residential community currently under development within North Natomas to the east. Regional access to the project site is provided from SR 99 and I-5. Local access to the project site is provided by Elkhorn Boulevard (Exhibit 1).

The recently approved Metro Airpark development area is located approximately 2 miles west of the project site, within Sacramento County and adjacent to the eastern boundary of the Sacramento International Airport. The Metro Airpark development area includes existing and proposed commercial, hotel, and recreational (i.e., golf course) land uses. The City's North Natomas Community Plan area is located adjacent to the eastern boundary of the project site and across SR 99. New residential and commercial land uses are currently being developed east of the project site.

#### Project Description

In addition to proposed approvals and development described below, the proposed project includes a request for a Sphere of Influence (SOI) boundary adjustment and annexation to the City of Sacramento. The Sacramento County Local Agency Formation Commission (LAFCO) is the agency with statutory responsibility for boundary changes and Sphere Of Influence adjustments, and the EIR will therefore address LAFCO's needs for environmental evaluation and disclosure under CEQA. The EIR will evaluate the potential environmental impacts of the project and recommend mitigation measures as required by CEQA.

lead agencies will prepare a full-scope, project EIR in compliance with CEQA Guidelines Section 15120 and 15161.

The applicant is seeking approval of a residential mixed-use development on the project site, which is located adjacent to and west of the Sacramento City limits and the City's SOI; as such the project applicant is seeking to annex the project site to the City. Annexation will require approval of pre-zoning entitlements from the City, and approval of an amendment to the City's SOI and annexation approval from the Sacramento County Local Formation Commission (LAFCO).

The project includes the construction of a range of housing types (e.g., high, medium, low density). The proposed land use plan is a predominantly residential development centered on a common water feature (approximately 41 acres) (Exhibit 2). A total of 3,723 housing units and approximately 30 acres of retail and commercial space would be constructed on site. An 11.3-acre elementary school would be provided in the southeastern portion of the project site. A total of 8 neighborhood parks (approximately 59 acres) would be provided throughout the community and would be connected by the central water feature and pedestrian paths and trails.

Commercial development would be primarily located in the northeastern portion of the project site along Elkhorn Boulevard. Medium and high density housing and retail land uses would be located in the center of the project site along a new arterial that connects the project site to the North Natomas Community to the east and Metro Airpark to the west.

The project would require several land use entitlements from the City of Sacramento including a general plan amendment, zoning amendments, pre-zoning, expansion of the North Natomas Community Plan area, and amendment of the North Natomas Community Plan. The project site is currently designated as agricultural cropland by the County and agriculture by the City. The project would change the land use designation to low density residential, medium density residential, high density residential, community/village commercial, and parks and open space land use designations under the City's General Plan.

### **Environmental Effects**

The City reviewed the proposed project and determined that an EIR should be prepared. It is expected that the following environmental issues will be evaluated in the EIR.

**Consistency with Plans and Policies:** Evaluation of project consistency with applicable land use and environmental plans and policies applicable to the project site including the Sacramento County General Plan, City of Sacramento General Plan, the Natomas Basin Habitat Conservation Plan, the Comprehensive Airport Land Use Plan, and other relevant plans.

**Traffic and Circulation** –Impacts to local and regional transportation facilities including several freeway segments. The evaluation transportation analysis will evaluate local intersections, project-related vehicle trips, proposed site circulation and access, local transit operations, and the surrounding roadway network.

**Agriculture** –Conversion of agricultural land to urban uses and impacts to surrounding agricultural uses.

**Air Quality** –Regional and local air quality will be described, and air quality impacts during construction (short-term) and project operation (long-term). The project's estimated air emissions will be compared to emissions thresholds of the Sacramento Metropolitan Air Quality Management District

**Hydrology and Water Quality** –Effect on hydrology and water quality characteristics of the central valley region including alteration of drainage patterns, erosion, stormwater discharges, and flooding.

**Geology and Soils** –Seismicity of the local area, presence of existing fault lines and effect on development, erodibility of site soils, soil stability, and expansive characteristics of site soils.

**Noise** –Construction and operational noise impacts (including traffic and airport noise) and comparison of these impacts to applicable noise thresholds.

**Biological Resources** – Botanical and wildlife reconnaissance surveys will be conducted. The EIR will describe the existing biological resources on the project site and evaluate the project's impacts to these biological resources.

**Cultural Resources** –Cultural resource impact assessment for the project site. Field surveys and literature review of the project site will be completed and summarized in the EIR.

**Public Services** –Potential to create adverse impacts to the provision of fire, police and emergency medical response, public schools, and libraries.

**Utilities** –Current capacity of the water and wastewater systems and the project's impact to these systems. An analysis of the regional water supply conditions will be provided, consistent with Senate Bill 610 (CEQA Section 21151.9), as well as water conveyance, wastewater collection and treatment, storm drainage, solid waste disposal, and electricity and natural gas services.

**Aesthetics** –Potential visibility of the project from surrounding uses and viewsheds. An assessment of the spatial attributes of the project and lighting/glare impacts to onsite and offsite areas will be provided.

**Public Health and Hazards** –Hazardous materials assessments, potential project impacts related to use of hazardous materials and emergency response plans, and safety issues related to the Sacramento International Airport.

**Parks and Open Space** –Project's potential to increase the use of neighborhood and regional parks, project's consistency with applicable plans and policies for parks and open space, and the project's potential to result in the loss of open space.

**Population and Housing** –Project's consistency with applicable goals and policies of the Housing Element in City of Sacramento's General Plan, as they relate to environmental policies and impacts. The EIR will analyze how the project affects the jobs/housing ratio for the City of Sacramento and North Natomas community. The EIR will also evaluate affordable housing requirements for the city and county of Sacramento, and potential for inducing additional growth.

**Cumulative Impacts** – The EIR will summarize the cumulative impacts of the project as identified and described in each of the environmental technical sections.

### Alternatives

The EIR will examine a range of feasible alternatives to the proposed project. The following project alternatives have been tentatively identified for analysis in the EIR:

- 1) **Airport Land Use Compatibility:** Avoid or reduce noise and safety impacts from operations at the Sacramento International Airport.
- 2) **Reduced Impacts to Biological Resources:** Designed to avoid or reduce impacts to wetlands and giant garter snake habitat on the project site.
- 3) **Reduced Traffic Generation:** Designed to constrain development at the project site to reduce the potential of exceeding Level of Service (LOS) thresholds
- 4) **No Project Alternative – Continuation of Existing Land Uses:** Assumes no project and continuation of existing conditions at the project site.

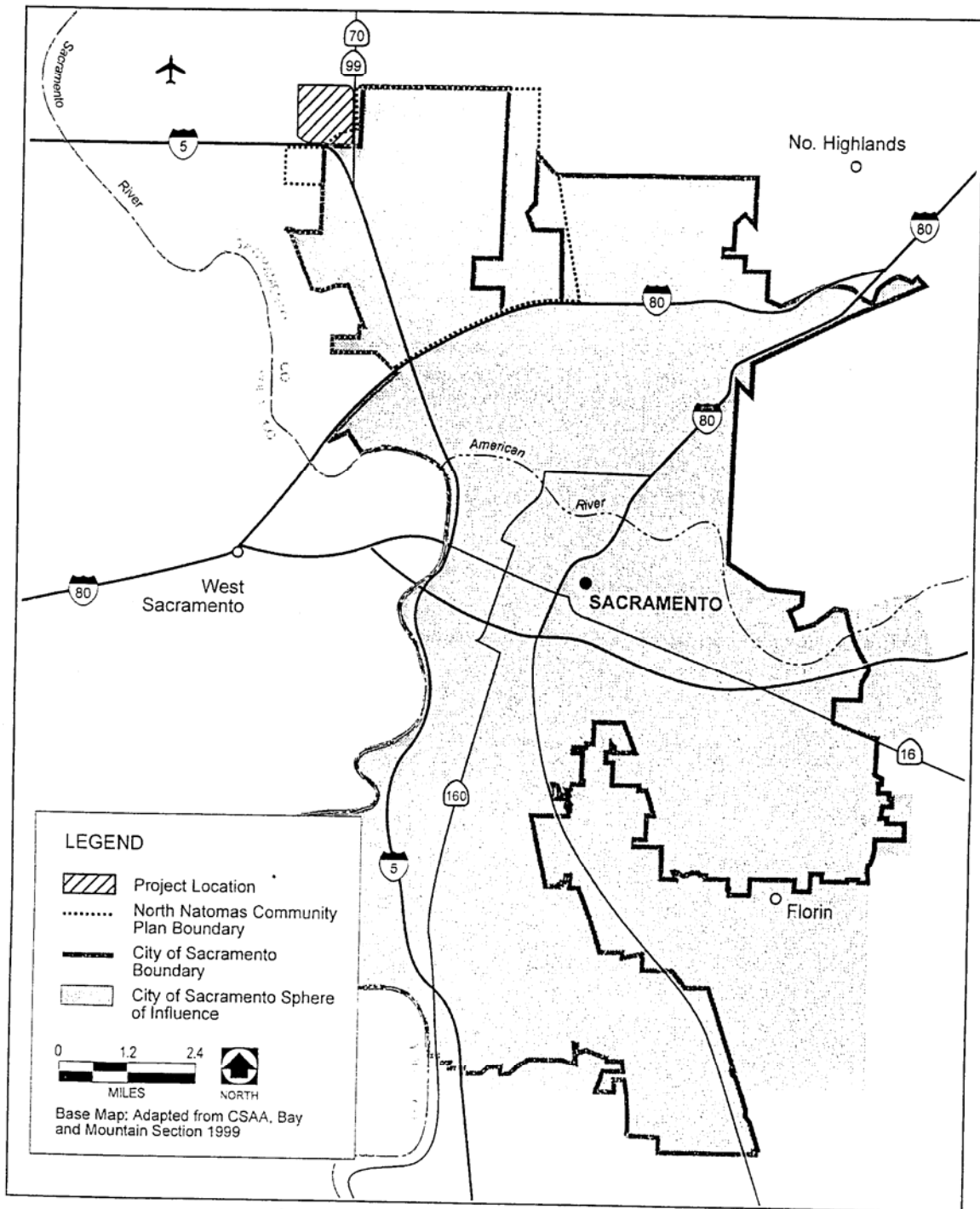
Other alternatives may be added following review of comments received in response to this NOP and the public scoping meeting.

#### **Submitting Comments**

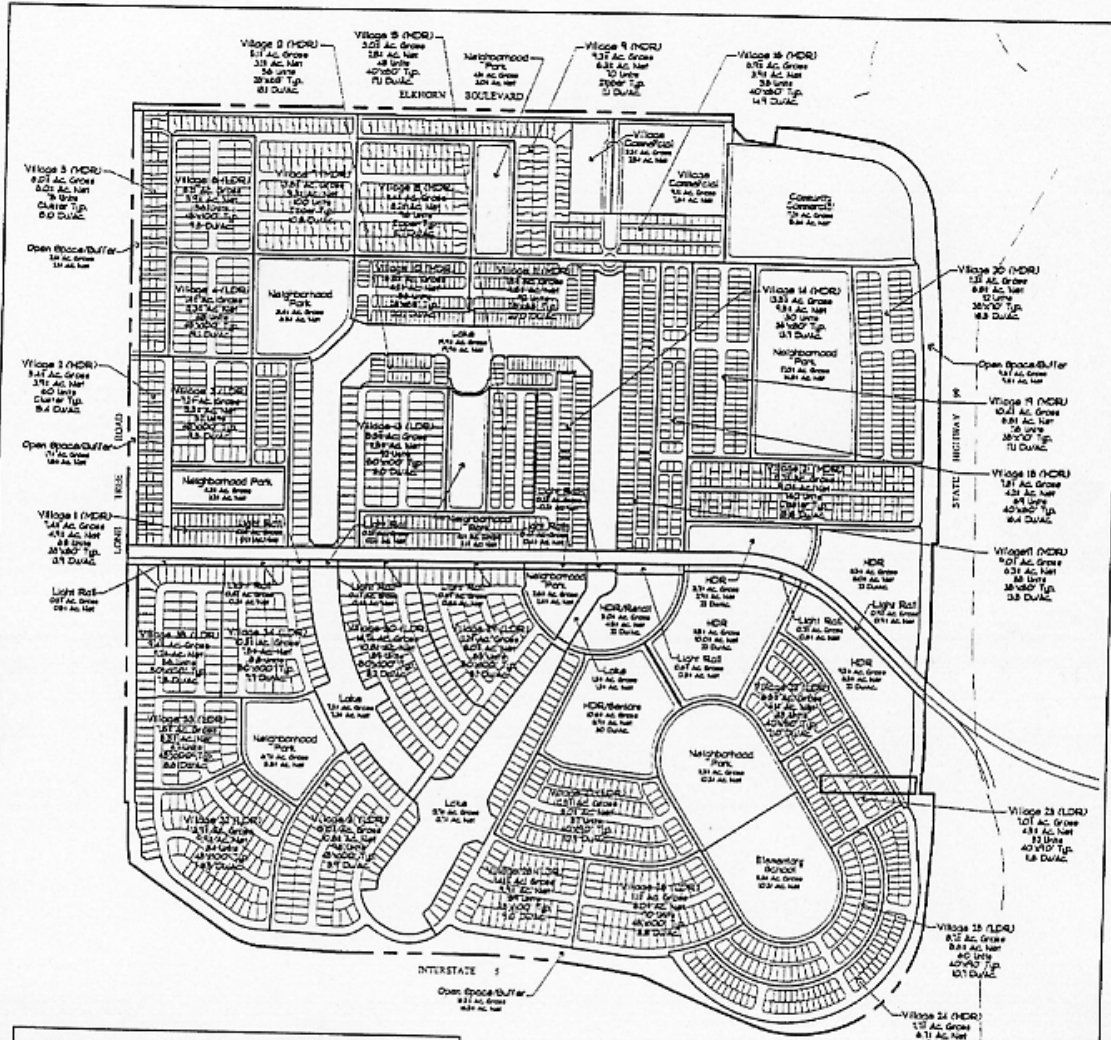
To ensure the full range of project issues of interest to responsible agencies and the public are addressed, comments and suggestions are invited from all interested parties. Written comments or questions concerning the EIR should be directed to the environmental project manager at the following address by 5:00 p.m. on July 29, 2005:

City of Sacramento Planning Division  
Attn: Tom Buford, Associate Planner  
1231 I Street, Room 300  
Sacramento, CA 95814  
Direct Line: (916) 808-7931  
E-mail: [tom.buford@cityofsacramento.org](mailto:tom.buford@cityofsacramento.org)

**All comments must include full name and address in order for staff to respond appropriately.**



Project Location Map Exhibit 1



**LAND USE SUMMARY**

LAND USE	GROSS ACRES	NET ACRES	UNITS
LOW DENSITY RESIDENTIAL (3-10 du/ac)	180.0	128.0	1,144
MEDIUM DENSITY RESIDENTIAL (7-21 du/ac)	160.7	105.5	1,565
HIGH DENSITY RESIDENTIAL (31-24 du/ac)	45.8	42.8	1,012
VILLAGE COMMERCIAL	12.4	10.1	-
COMMUNITY COMMERCIAL	17.2	15.9	-
ELEMENTARY SCHOOL	11.3	10.2	-
NEIGHBORHOOD PARKS	58.5	45.6	-
LAKE	41.2	41.2	-
OPEN SPACE/BUFFER	29.9	29.8	-
LIGHT RAIL CORRIDOR	5.0	4.7	-
OPEN SPACE	-	1.7	-
LANDSCAPE CORRIDOR	-	2.0	-
PEDESTRIAN PASEO	-	2.0	-
ELKHORN BOULEVARD + MEISTER WAY	12.0	12.0	-
LOCAL RESIDENTIAL STREETS	-	122.6	-
<b>TOTAL</b>	<b>577.0</b>	<b>577.0</b>	<b>3,723</b>

G 0011001.21 004

Project Site Plan Exhibit 2





817 - 14th Street, 100  
Sacramento, Ca. 95814  
916-447-4956  
[www.swainsonshawk.org](http://www.swainsonshawk.org)



909 12<sup>th</sup> St., 100  
Sacramento, Ca. 95814  
916-443-1033  
[www.ecosacramento.org](http://www.ecosacramento.org)



1414 K Street, 500  
Sacramento, Ca. 95814  
916-557-1100, x 108  
[www.motherlode.sierraclub.org](http://www.motherlode.sierraclub.org)

July 28, 2005

Chairperson Rob Fong, LAFCo Commissioners,  
Peter Brundage, Executive Officer  
Sacramento County LAFCo  
1112 I Street, Suite 100  
Sacramento, CA 95814

LAFCo Meeting, August 3, 2005, Item # 8, 9.  
Proposed Exception to the LAFCo Policy for Sequential Processing of Proposed SOI  
Amendment and Annexation of Greenbriar.

Dear Chairperson Fong, LAFCo Commissioners, and Mr. Brundage:

Sierra Club, Environmental Council of Sacramento, and Friends of the Swainson's Hawk have reviewed the letter of Carol Shearly, Interim Planning Director, City of Sacramento, dated July 25, 2005, requesting waiver of LAFCO's regulations and concurrent processing for a proposed Sphere of Influence Amendment and annexation of the 513-acre parcel of agricultural land northwest of I-5 and Hwy 99, which is proposed for a development project known as Greenbriar. We urge that LAFCO deny this request for special treatment. We also urge that LAFCO, not the City of Sacramento, be the lead agency for the proposed Sphere of Influence Amendment associated with what is called "Natomas Joint Vision".

There are a number of problems with accelerating the process for review and consideration of the proposed annexation of the Greenbriar property. This project is highly controversial and should not receive procedural favors denied to other projects. Equally, giving the City lead agency status for the EIR for the SOI for Joint Vision is unprecedented. Granting the request sets in motion a precedent for every jurisdiction in the County. The cumulative impact of this decision would be that Sacramento LAFCO would be seriously at odds with state law and would not be performing its mission.

Following are some of the problems which we think are sufficiently serious and of a countywide nature, any one of which would compel LAFCO's denial of the request.

1) Approval of an SOI for urban development outside of the County of Sacramento Urban Services Boundary is a very major policy change. The environmental review and public process should be conducted by LAFCO, an agency charged specifically with this kind of task. The fact

that the City and the County have ostensibly made an agreement called Joint Vision does not override LAFCO's mandate to review the project and its environmental impacts, The Joint Vision MOU is replete with omissions, internal contradictions and areas potentially subject to multiple interpretations. It did not undergo environmental review under CEQA. LAFCO's oversight will be very important in the process.

2) While City claims the Greenbriar project is "smart growth," the project does not conform to City's own Smart Growth policies. City's adoption of Joint Vision committed the City to respect Smart Growth policies in any future development in North Natomas. Proponents claim that Greenbriar is an infill project linking two urbanized areas: the North Natomas Community Plan and the Metro Air Park industrial area. However Metro Airpark has initiated no substantive building in the several years it has been authorized. The build-out of this 1,983-acre development is likely to be slow because of the region's current oversupply of vacant land zoned for commercial, office, and light industrial use, and because permissible land uses are constrained by its location next to the Airport. The North Natomas Community Plan is far from built out. In addition, the Panhandle area of Natomas -- long envisioned as part of the North Natomas Community -- has not even been planned and annexed. Greenbriar and Joint Vision are significantly behind these other areas and approval of Greenbriar cannot be promoted as "Smart Growth" at this time.

3) Sacramento City Council Resolution No. 2001-518, adopted by the Council on July 24, 2002, attached EXHIBIT A, states that City shall approve no first-stage entitlements for development proposals on the Greenbriar land or elsewhere in Natomas Basin outside of the City limits and proposed panhandle annexation area, including *rezoning*, "pending completion of the City's currently ongoing Sphere of Influence Study." The SOI Study has not been completed. Resolution No. 2001-518 has no sunset date and has not been rescinded or modified by the Sacramento City Council. We are informed that City's request to LAFCO for waiver of LAFCO's procedures was not authorized by the City Council.

Resolution 2001-518 is City Council's policy statement that it will not consider piecemealing of new development outside its present boundary until an SOI Study is completed for the entire area of Natomas which City might consider annexing in the future. The wisdom of this policy is obvious. Yet the proposal to "concurrently process" Greenbriar before completion of City's SOI study is exactly the piecemealing which the City Council wished to avoid. Processing of Greenbriar ahead of completion of the SOI study will assuredly cause other landowners to demand the same treatment.

4) City's most current interpretation of Resolution 2001-518 is stated in City's FEIR/EIS for the Natomas Basin Habitat Conservation Plan, pp. 3-30 - 3-31, certified by Sacramento City Council on May 13, 2003, attached EXHIBIT B, in which City stated:

"Development of West Lakeside and Greenbriar Farms is not considered reasonably certain to occur *because extensive studies, planning and further analyses are required as part of the Joint Vision process before any development approvals may be considered* for any of these areas, and because the outcome of these efforts is unknown." (FEIR/EIS p. 3-31, attached.)

5) The City's adopted 2003 Natomas Basin Habitat Conservation Plan and Implementation Agreement, state that:

".. in the event of further urban development outside of the NBHCP Permit Areas, *prior to approval of any related rezoning or pre-zoning*, such future urban development shall trigger a reevaluation of the Plan [NBHCP] and Permits, a new effects analysis, potential amendments and/or revisions to the Plan and Permits, a separate conservation strategy, and issuance of Incidental Take Permits ... for that additional development, and/or possible suspension or revocation of CITY'S or SUTTER'S Permits in the event that City or Sutter violate such limitations."

NBHCP, Implementing Agreement, p. 3, § 3.1(a).

Pre-zoning occurs before annexation. City has not implemented the actions necessary to seek a new Incidental Take Permit for Greenbriar which is required by the NBHCP prior to rezoning or pre-zoning.

Approval of the Natomas Basin HCP by U.S. Fish and Wildlife Service and California Department of Fish and Game relied upon the assumption, repeated throughout the EIR and NBHCP, that there would be no further development outside the Permit Areas of City, Sutter County, and Metro Air Park (totaling 17,500 acres) during the 50-year Permit Term. Job one for the City is to determine whether the wildlife agencies will authorize any further development in the Basin beyond that covered by the NBHCP, and if so, under what conditions and with what mitigation program. The initiation of the SOI in advance of an agreement with the wildlife agencies to permit new development outside the NBHCP Permit Areas would be seriously out of proper sequence.

6) The "smart growth" and the wildlife issues are serious impediments to further authorization of urban growth in Natomas at this time, but there are other issues of a regional nature that merit environmental review by LAFCO. Here are some examples:

- The Sacramento International Airport is a regional facility serving all communities in the region. Unimpeded access to the Airport is important - traffic congestion causes passengers to miss flights. RT's Alternatives Analysis for the Downtown Natomas Airport light rail line (December, 2003) pointed out that build-out of development approved for the NNCP area, which does not include Greenbriar, will result in severe traffic congestion on I-5 for several hours between Arena Boulevard and Hwy 99. Greenbriar's location and the build out of both Greenbriar and Metro Airpark could severely worsen that situation for the regions' residents who need to access the Airport.

- Proponents claim that authorization of Greenbriar will help win Federal approval of Federal transportation funding for light rail extension in Natomas. ECOS and Sierra Club have supported the Truxel Light Rail line only to Town Center. Extending the line from Town Center to the Airport would be sprawl inducing. Federal policy specifically prohibits federal investments which would produce urban sprawl in ozone non-attainment areas, such as Sacramento. Instead of helping get the DNA line funded, approval of the Greenbriar project at

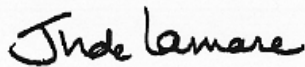
this time could provide a reason for the Federal government to put the DNA extension lower on its priority list for funding. It is a controversial land use impact that would complicate Federal consideration of the merits of funding the line.

Moreover, the federal funding of an extension of BART to the San Francisco Airport has not been cost-effective, with ridership much lower than predicted. BART recently cut service to the Airport because of low ridership. The Sacramento community should reconsider whether the investment in Airport service is cost-effective in light of other transit investments and what they could do for mobility in the County.

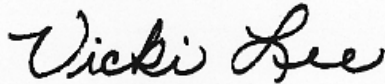
- The regional air quality plan has an inventory of pollutants that is based on an urban footprint that includes the County Urban Services Boundary. It makes more sense to include consideration of moving that boundary in the development of the 2007 Ozone Attainment Plan required under federal law. Moving that boundary now in the absence of a comprehensive analysis of what measures are needed to compensate for changing the urban footprint will make it more difficult to develop and adopt a fair and workable ozone plan in 2007.

In sum, there many reasons for LAFCO to deny the request of the City of Sacramento as presented in a July 25, 2005 letter from Carol Shearly.

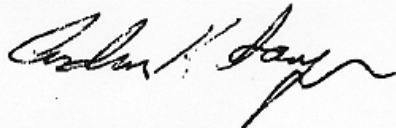
Sincerely,



Jude Lamare,  
President, Friends of the Swainson's Hawk  
916-447-4956



Vicki Lee  
Conservation Chair  
Mother Lode Chapter, Sierra Club  
916-447-3670



Andy Sawyer  
President, ECOS  
916-442-4215

25741

**RESOLUTION NO. 2001-518**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF JUL 24 2001

**A RESOLUTION ESTABLISHING RESTRICTIONS ON APPROVAL OF  
FIRST-STAGE LEGISLATIVE ENTITLEMENTS  
FOR CERTAIN PROPERTY LOCATED OUTSIDE OF  
THE BOUNDARY OF THE CITY OF SACRAMENTO**

**WHEREAS:**

- A. The City, intervening developers, and certain environmental organizations have heretofore entered into an agreement entitled "Agreement to Settle Litigation" ("Agreement") with respect to litigation filed in the United States District Court (National Wildlife Federation v. Bruce Babbitt, Secretary of Interior) regarding the Natomas Basin Habitat Conservation Plan.
- B. Section 4.c. of the Agreement (as shown in Exhibit 2 attached hereto) provides that the City shall within 60 days following the effective date of the Agreement, initiate proceedings to establish restrictions on issuance of land use entitlements for certain properties located outside the City's boundary, until the City's Sphere of Influence study is completed.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO that:**

- 1. Pending completion of the City's currently ongoing Sphere of Influence Study, no first-stage legislative entitlements shall be approved for:
  - A. Lands located within the proposed Camino Norte, West Lakeside and Greenbriar Farms areas, as described on Exhibit A, attached hereto and incorporated herein by this reference;
  - B. Any lands otherwise located outside of the existing boundaries of the North Natomas Community Plan Area or the South Natomas Community Plan Area, except for the area included within the proposed "panhandle" annexation area (P97-125)

FOR CITY CLERK USE ONLY

RESOLUTION NO. 2001-518

DATE ADOPTED: JUL 24

~~MAR 2005~~

which area shall be free of the restrictions adopted by this resolution.

- 2. The term "first stage legislative entitlements" shall mean development agreements, general plan or community plan amendments, rezoning, prezoning, or the establishment of a Planned Unit Development.
- 3. The Camino Norte, Greenbriar Farms and West Lakeside areas are not included within the acreage anticipated to receive incidental take coverage under the Revised Natomas Basin Habitat Conservation Plan and the new Incidental Take Permit to be issued in conjunction therewith. If said areas are eventually issued first stage legislative entitlements by the City, any necessary incidental take coverage for such areas would have to be separately secured from the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

**HEATHER FARGO**

**MAYOR**

ATTEST:  
**VALERIE BURROWES**

\_\_\_\_\_  
CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO. 2001-518

DATE ADOPTED: JUL 24

~~MAR 2008~~

EXHIBIT A 2



1.19

DEPARTMENT OF  
PLANNING AND BUILDING  
NORTH NATOMAS UNIT

CITY OF SACRAMENTO  
CALIFORNIA

1231 I STREET  
ROOM 300  
SACRAMENTO, CA  
95814-2904

PLANNING  
916-264-5381  
FAX 916-264-5328

July 11, 2001

City Council  
Sacramento, California

Honorable Members In Session:

**SUBJECT:** RESOLUTION RESTRICTING LAND USE ENTITLEMENTS FOR  
CERTAIN PROPERTIES LOCATED OUTSIDE THE CITY'S BOUNDARY,  
UNTIL THE CITY'S SPHERE OF INFLUENCE STUDY IS COMPLETED

**LOCATION:** Areas to the west of the existing City limits in North Natomas  
adjacent to Council District 1

**RECOMMENDATION:** Staff recommends approval of the attached resolution.

**CONTACT PERSON:** Scot Mende, Senior Planner: 264-5894  
Carol Shearly, Natomas Manager: 264-5893

**FOR CITY COUNCIL MEETING OF:** July 24, 2001 (Afternoon)

**SUMMARY:** The attached resolution would temporarily restrict the ability of the City to  
approve "first stage" entitlements for land use projects that are located outside of the  
City's existing Sphere of Influence.

**BACKGROUND:** The City, developers who intervened in the federal case, and certain  
environmental organizations entered into an "Agreement to Settle Litigation" with respect  
to the Natomas Basin Habitat Conservation Plan. Section 4.c. of the Agreement provides  
that the City shall within 60 days following the effective date of the Agreement, initiate  
proceedings to establish restrictions on issuance of land use entitlements for certain  
properties located outside the City's boundary, until the City's Sphere of Influence study  
is completed. The "North Natomas Panhandle" annexation (P97-125), which is already  
within the existing Sphere of Influence, will not be affected by the proposed resolution.

~~MARK 2600~~

**M01-073 for City Council Meeting of 07/24/01**

The specific projects that may be affected include:

- P00-027: West Lakeside (north of Del Paso Road, west of Westlake);
- Greenbriar Farms (northwest of the I-5/US99 interchange);
- Camino Norte (south of San Juan Road, east of El Centro Road);
- and any other project outside of the existing City Sphere of Influence within the Natomas Basin.

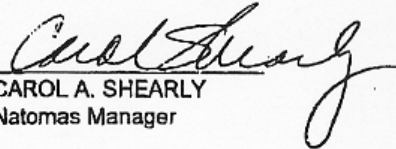
The restrictions on issuance of land use ("first stage") entitlements shall mean that development agreements, general plan or community plan amendments, rezoning, pre-zoning, or the establishment of a Planned Unit Development may not be *approved* until the completion of the Sphere of Influence Study currently underway. The resolution does not restrict the ability of the City to accept and process applications for these first stage entitlements.

**FINANCIAL CONSIDERATIONS: None**

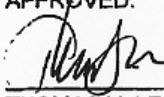
**POLICY CONSIDERATIONS:** The resolution defers approval of first stage entitlements until such time that the City can develop and adopt policies relative to its Sphere of Influence. City Planning staff expect to bring the Sphere of Influence Study forward this winter to the City Council.

**ESBD PROGRAM:** There are no services or supplies purchased with this action.

Respectfully submitted,

  
 CAROL A. SHEARLY  
 Natomas Manager

FOR CITY COUNCIL INFORMATION:  
 ROBERT P. THOMAS  
 CITY MANAGER

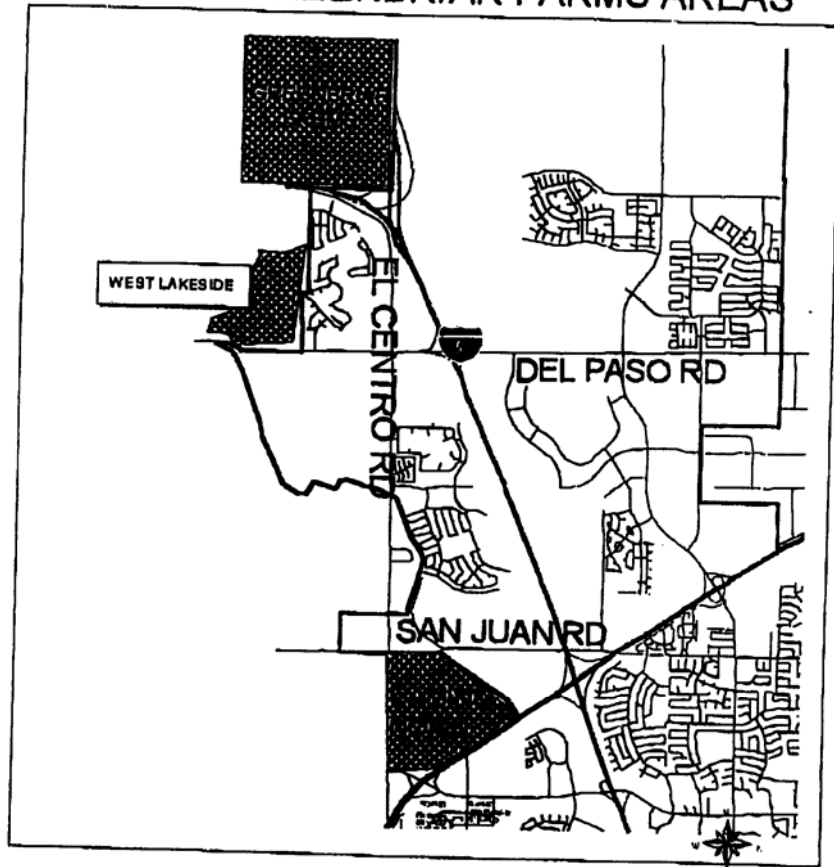
APPROVED:  
  
 THOMAS V. LEE  
 Deputy City Manager

**ATTACHMENTS**

	<u>PAGE</u>
Resolution Establishing Restrictions on First Stage Entitlements	3
Exhibit 1: Map of Affected Projects	5
Exhibit 2: Section 4.c of the Settlement Agreement	6



### Exhibit 1 CAMINO NORTE, WEST LAKESIDE, AND GREENBRIAR FARMS AREAS



3000 0 3000 6000 Feet

FOR CITY CLERK USE ONLY

RESOLUTION NO. 2001-518

DATE ADOPTED: MAR 2007

~~MAR 2007~~

**EXHIBIT 2**  
**Excerpt from Agreement to Settle Litigation - May 10, 2001**  
**Section 4.c**

Restrictions on First-Stage Legislative Entitlements. City shall, within sixty (60) days following the Effective Date, initiate processing of a resolution providing for restrictions on its approval of "First-Stage Legislative Entitlements" for development of lands (1) located within the proposed Camino Norte, West Lakeside and Greenbriar Farms areas, described on Exhibit H, attached hereto or (2) otherwise located outside of the existing boundaries of the NNCP [The NNCP includes the currently-proposed "panhandle annexation" area] or the SNCP until completion of the SOI Study. As used herein, the term First-Stage Legislative Entitlements shall be defined to mean general plan or NNCP amendments, rezonings (including prezonings and the establishment of PUDs) and development agreements. City acknowledges and agrees that the Camino Norte, Greenbriar Farms and West Lakeside areas are not included within the acreage anticipated to receive incidental take coverage under the Revised NBHCP and New ITP and that, if such areas eventually are issued First Stage Legislative Entitlements by City, any necessary take coverage for such areas would have to be secured from the Service and CDFG.

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FOR CITY CLERK USE ONLY

RESOLUTION NO. 2001-518DATE ADOPTED:           ~~MAR 2000~~

## SECTION 3: RESPONSES TO COMMENTS

(see Section 2.2.1 and Section 4.1.2.3) because this is the amount of development that would be allowed in the Natomas Basin under adopted City, Sutter County, and Sacramento County land use plans. In other words, 17,500 acres represents the level of development considered reasonably foreseeable in the Basin.

Other specific development approval requests for lands outside of the City, Sutter County, and MAP Permit Areas were not considered reasonably foreseeable under NEPA for the reasons described above in the discussion regarding the treatment of cumulative effects under the ESA. Section 4.1.2.3 of the EIR/EIS explains that several other long-term projects, including the potential for development within the unincorporated portion of Sacramento County, have the potential to occur in the Basin at some unidentified future date. If these projects occur, they would not be included in the 17,500 acres of Planned Development unless the NBHCP is amended or a separate HCP were prepared for that additional development. Both the EIR/EIS and NBHCP acknowledge that any additional urban development in the Basin beyond 17,500 acres may contribute to significant cumulative environmental effects to the resources within the Natomas Basin. However, at the time the Draft EIR/EIS was prepared, insufficient data were available to conduct an assessment of these cumulative effects, in part, because the nature, location, amount, and extent of such development was unknown, and remains unknown as described further above in this Master Response. Additionally, no specific land uses or proposals were identified (with the exception of the Greenbriar Farms and West Lakeside areas) that would enable an analysis of potential cumulative impacts.

The following text summarizes the status of future specific development proposals or planning efforts that commentors suggest should be considered cumulative projects and the way in which the NBHCP and EIR/EIS address these planning efforts or proposals.

**West Lakeside and Greenbriar Farms.** The Draft NBHCP describes the West Lakeside and Greenbriar Farms proposals on page III-15. The developer has attempted to obtain necessary development approvals for several years to support development of the West Lakeside and Greenbriar Farms properties. In its latest attempts, the developer filed a general plan amendment, rezoning and annexation applications with the City on February 22, 2002 for the West Lakeside project. Although the developer has expressed interest in annexing the Greenbriar Farms property, it has not filed any applications with the City. Because the West Lakeside and Greenbriar Farms properties are *not* included in any adopted land use plans nor are they located within the City's SOI and city limits or within the County's Urban Services Boundary, development of these areas is not allowed by the City or Sacramento County. While the developer has expressed interest in annexation to the City, the status of these requests and the timing and ability to obtain necessary local approvals remain uncertain because it is unknown whether the Joint Vision effort would result in changes to the SOI so that such development could proceed. Consequently, development of these properties was considered speculative at the time the Draft NBHCP was prepared, and it remains speculative.

Moreover, the City is limited in its ability to approve development of the West Lakeside and Greenbriar Farms for the foreseeable future. In accordance with the Settlement Agreement in the prior *NWF v. Babbitt* litigation, the City adopted a resolution (Resolution No. 2001-518, Appendix H of the Final EIR/EIS), imposing restrictions on its approval of General Plan amendments, rezonings/ rezonings, and development agreements for the Camino Norte,

## SECTION 3: RESPONSES TO COMMENTS

West Lakeside, and Greenbriar Farms areas, or any lands otherwise located outside of the existing boundaries of the North and South Natomas Community Plans until completion of the Joint Vision. Consequently, these areas are not covered by the NBHCP and the ITPs, and the City is prohibited under its Resolution from taking any actions to approve the West Lakeside and Greenbriar Farms annexations and development proposals pending the results of the Joint Vision effort. Development of the West Lakeside and Greenbriar Farms property is not considered reasonably certain to occur because extensive studies, planning, and further analyses are required as part of the Joint Vision process before any development approvals may be considered for any of these areas, and because the outcome of these efforts is unknown. These projects also are not considered related projects under ESA or CESA because they are not considered authorized activities that may be covered by the NBHCP and ITPs. For these reasons, they are not considered reasonably foreseeable.

**Northern Territories/Brookfield Land Company.** In the 1990s, Northern Territories, Inc. proposed a large development project in Sacramento County north of Elkhorn Boulevard outside the County's Urban Services Boundary. The County denied the development project and rejected the proposal to change the Urban Services Boundary for this project. As of the date of preparation of the Final NBHCP and EIR/EIS, the developer has not filed any further annexation requests with the County or the City of Sacramento. As stated above, the City is restricted in its consideration of this project, should an application be filed, because this area is outside of the City's SOI and County's Urban Services Boundary. In other words, unless the City's SOI or County's urban service boundary is expanded to include this property, the City or County must deny an urban development application. Consequently, this area is not covered by the NBHCP and the ITPs, and the City is prohibited under Resolution No. 2001-518 from taking any actions to approve a development proposal pending the results of the Joint Vision effort described above. Development of this property is not considered reasonably certain to occur because extensive studies, planning, and further analyses are required before any development approvals may be considered for this area, and because the outcome of these efforts is unknown. This project also is not considered a related project under the ESA because it is not covered by the NBHCP and ITPs. Consequently, it is not considered reasonably foreseeable.

**North River Coalition.** The North River proposal consists of 822 acres for development south of West El Camino Avenue, including a 350-acre auto mall, outside of the Urban Services Boundary and the City's Permit Area. Sacramento County has held on abeyance its response to this proposal pending the outcome of the Joint Vision process. Development of the North River Coalition's proposal is not considered reasonably certain to occur because extensive studies, planning, and further analyses are required as part of the Joint Vision process before the potential for development of this property can be determined.

**Alleghany Properties.** This area consists of 86 acres on the west side of El Centro Road outside of the City's Permit Area. No application has been filed for urban development on this property. This property must await the results of the Joint Vision planning effort before the City could consider development of this site.

**Lauppe Family/AKT.** This area consists of approximately 298 acres of land bounded by I-5, Powerline Road, West Drainage canal, and RD 1000 Lone Tree canal outside of the City's Permit Area. This property must await the results of the Joint Vision planning effort before

SAC

NATOMAS BASIN HCP  
FINAL EIR/EIS

3-31

MAR 2004

B-2

Implementation Agreement, NBHCP, p.3

**AGREEMENT**

FOR AND IN CONSIDERATION of the recitals set forth above, which are incorporated by reference herein, the covenants set forth herein, and other considerations, the receipt and adequacy of which is hereby acknowledged, the Parties hereto agree as follows:

**2 DEFINITIONS**

Terms used in this Agreement with reference to the ESA shall have the same meaning as those same terms have under the ESA, or in regulations adopted by the USFWS, and terms used in this Agreement with reference to CESA, shall have the same meaning as those same terms have under CESA, or regulations adopted by CDFG. Capitalized terms used in this Agreement shall have the defined meanings specified in the NBHCP as attached hereto as Exhibit A and incorporated herein into this Agreement. Where additional terms are used in this Agreement, definitions are included within the applicable text. Any amendments to the definitions contained in this Agreement shall be deemed automatically to be amendments to the definitions contained in the NBHCP.

**3 OBLIGATIONS OF THE PARTIES**

**3.1 CITY and SUTTER.**

**3.1.1 Limitation on Total Development in Natomas Basin and Individual Permit Areas.** The NBHCP anticipates and analyzes a total of 17,500 acres of Planned Development in the Natomas Basin, 15,517 acres of which constitutes Authorized Development within CITY and SUTTER. (An additional 1,983 acres of development is allocated to the Metro Air Park project in Sacramento County under the Metro Air Park Habitat Conservation Plan and is analyzed within the NBHCP.) CITY agrees not to approve more than 8,050 acres of Authorized Development and to ensure that all Authorized Development is confined to CITY's Permit Area as depicted on Exhibit B to this Agreement). SUTTER agrees not to approve more than 7,467 acres of Authorized Development and to ensure that all Authorized Development is confined to SUTTER's Permit Area as depicted on Exhibit C to this Agreement). The Parties further agree:

(a) Because the effectiveness of the NBHCP's Operating Conservation Program is based upon CITY limiting total development to 8,050 acres within the CITY's Permit Area, and SUTTER limiting total development to 7,467 acres within SUTTER's Permit Area, approval by either CITY or SUTTER of future urban development within the Plan Area or outside of their respective Permit Areas would constitute a significant departure from the Plan's Operating Conservation Program. Thus, CITY and SUTTER further agree that in the event this future urban development should occur, prior to approval of any related rezoning or prezoning, such future urban development shall trigger a reevaluation of the Plan and Permits, a new effects analysis, potential amendments and/or revisions to the Plan and Permits, a separate conservation strategy and issuance of Incidental Take Permits to the permittee for that additional development, and/or possible suspension or revocation of CITY's or SUTTER's Permits in the event the CITY or SUTTER violate such limitations.

(b) For purposes of the NBHCP and this Agreement, CITY agrees that although the West Lakeside Annexation area is proposed by the landowners to be annexed to the CITY, this area currently is located within Sacramento County and is outside of the County's Urban Services Boundary and the City's Sphere of Influence, and it is not included in the 8,050 acres of Authorized Development or within the CITY's Permit Area. Thus, CITY agrees that in the event this annexation occurs, it shall, prior to approval of any rezoning or prezoning associated with such annexation, trigger a reevaluation of the Plan, a new effects analysis, potential amendments and/or revisions to the Plan and Permits, a separate conservation strategy and issuance of Incidental Take Permits to the City for that additional urban development, and/or possible