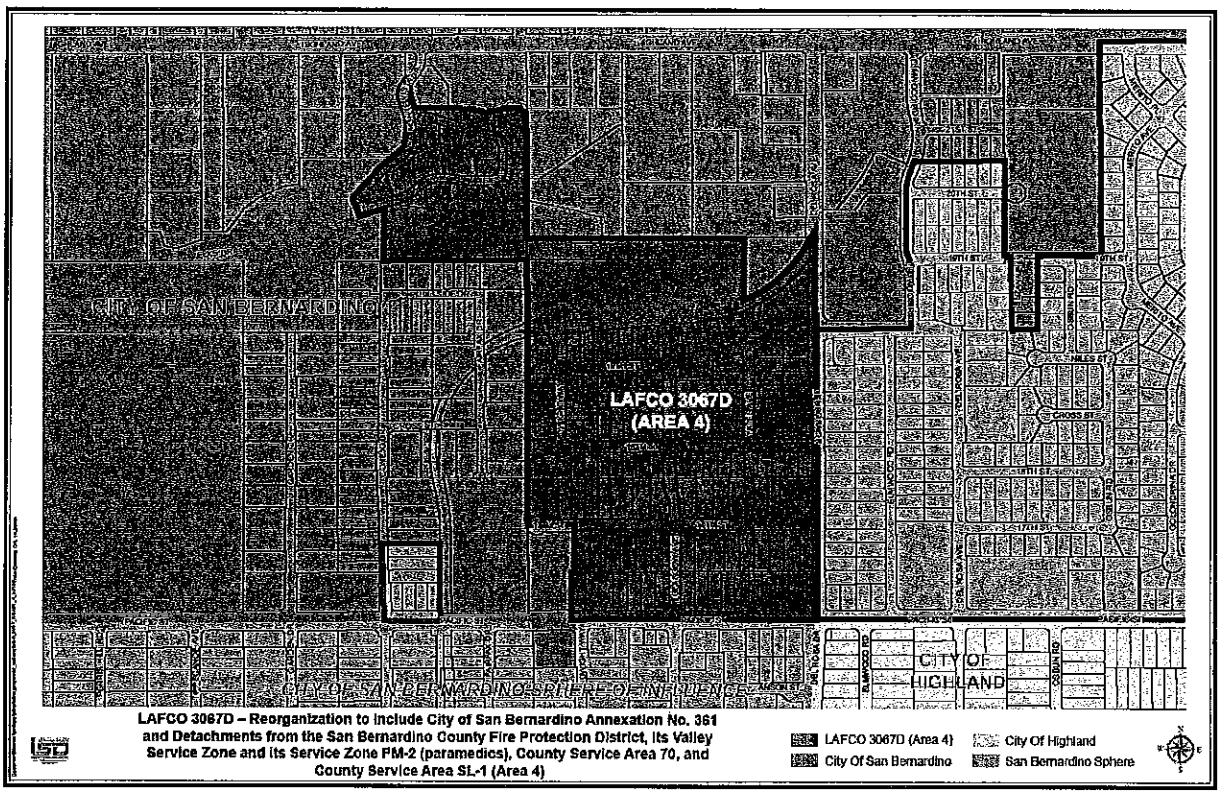
LAFCO 3067D -- AREA 4

Area 4 is generally located north of Pacific Street and west of Del Rosa Drive. The island is bordered by a combination of Monte Vista Drive and parcel lines on the west (existing City boundary), parcel lines on the north (existing City of San Bernardino boundary), Del Rosa Drive on the east, and Pacific Street on the south. Attachment #9 provides maps of the area, an updated Island Information for Proposal Form, Fiscal Impact Spreadsheet for Area #4, provides for the environmental assessment of the proposal provided by the Commission's environmental consultant, and provides a draft resolution of approval. The map below illustrates this area:



LAFCO staff has addressed each of the required determinations for the island as follows:

- The area is 61 +/- acres in size, as verified by the County Surveyor's Department, within the 150 acre threshold, and encompasses the entire substantially surrounded island;

- The area is substantially surrounded. The island, as modified by Commission action, is an estimated 70% surrounded by existing City of San Bernardino boundaries in compliance with Commission policy;

- The study area is substantially developed or developing, on the basis that public services are available in the area, there are public improvements in the area, and there are physical improvements on many, if not most, of the properties;

- The study area does not contain prime agricultural land as such is defined by LAFCO statutes;

- The study area will benefit from the annexation and has benefited from services provided by the City of San Bernardino through contract with the San Bernardino County Fire Protection District (formerly known as County Service Area 38);

- The City of San Bernardino has conducted an outreach program prior to submission of the reorganization application; and,

- The area is not included within an established County Redevelopment Area. However, the territory is a part of the Inland Valley Development Authority, a joint-powers redevelopment agency created for the former Norton Air Force Base transition.

LAND USE:

The City of San Bernardino adopted its General Plan Update in October 2006 which included the pre-zoning of its sphere of influence. The City's land use designations for Area #4 is RL (Residential Low) which promotes low density, large lot, single family detached residential units with a minimum average lot size of 10,800 square feet; and RS (Residential Suburban) which promotes single family detached units in a suburban setting with a minimum lot size of 7,200 square feet and a maximum density of 4.5 dwelling units per acre. The pre-zone designation is required to be maintained for a two-year period following annexation (Government Code Section 56735 (e)) unless specific determinations are made by the City Council at a public hearing. The City's land use classifications are generally compatible with the County's land use designations.

ENVIRONMENTAL CONSIDERATIONS:

The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed this proposal and has indicated that it is his recommendation that the reorganization to include island annexations is statutorily exempt from the California Environmental Quality Act (CEQA). This determination is based on the fact that the Commission has no discretion in its review of this proposal and must approve the project. Such a "ministerial action" is exempt from environmental review pursuant to Section 15268 of the State CEQA Guidelines. A copy of Mr. Dodson's analysis is included as Attachment #9 to this report. It is recommended that the Commission adopt the statutory exemption for this proposal and direct the Executive Officer to file a Notice of Exemption with the appropriate agency within five days.

FINDINGS:

The following findings are required to be provided by Commission policy and Government Code Section 56668 for all proposals considered:

1. The Registrar of Voters Office has determined that Area #4, as modified, is legally inhabited, containing 241 registered voters as of October 28, 2009.

2. The study area is within the sphere of influence assigned the City of San Bernardino.

3. The County Assessor's Office has determined that the assessed valuation of land and improvements for Area #4 is $15,265,944 ($3,848,571 land; $11,417,373 improvements).

4. LAFCO staff has provided individual notices to landowners (totaling 464 notices) and registered voters (totaling 240 notices) within the reorganization area. Notice was provided to surrounding landowners (1,306) and registered voters (1,761) for the three southern islands on October 27, 2009. The total number of notices provided, in accordance with State law and adopted Commission policies, is 3,771. To date verbal expression of opposition has been received in the LAFCO staff office expressing concern regarding service delivery changes; and written opposition has been received.

5. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, newspaper of general circulation within the study area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.

6. The City of San Bernardino pre-zoned its sphere of influence through adoption of its General Plan Update in October 2006. The land use designations to be applied within the reorganization area upon annexation are RL (Residential Low) single family detached residential units, average lot size of 10,800 square feet and RS (Residential Suburban) – 4.5 dwelling units per acre/7,200 square foot lots. Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council at a public hearing.

7. The Commission's Environmental Consultant, Tom Dodson and Associates, has indicated that the review of this reorganization is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of this application is ministerial, in that based upon the findings required by Government Code Section 56375(a), the Commission has no discretion in its action on the proposal other than approval. Therefore, a statutory exemption as authorized under Section 15268 of the State CEQA Guidelines is appropriate. A copy of Mr. Dodson's response is included for the Commission's review as Attachment #9 to this report.

8. Upon annexation, the City of San Bernardino will extend its services as required by the existing and anticipated land uses. The City has submitted a "Plan for Service" as required by law which indicates that revenues are less than the costs for providing the service; however, the revenues anticipated from the annexation of LAFCO 3050 are anticipated to exceed the cost of service covering this shortfall. Water and sewer service to the island area is currently provided by the East Valley Water District, fire protection/paramedics are currently provided by the City of San Bernardino Fire Department through contract with the San Bernardino County Fire Protection District and

ambulance service is provide by American Medical Response. A copy of the City's Plan and updated information on the Plan is included for the Commission's review as Attachment #2.

9. The City of San Bernardino has indicated in its application and Plan for Service that its 7.75% Utility Users Tax on properties will not be extended to this area upon annexation. In addition, LAFCO staff has included a condition in its recommendation for approval that indicates that the utility tax will not be applied to the island annexation area.

10. The area in question is presently served by the following public agencies:

    County of San Bernardino
    Inland Empire Resource Conservation District
    San Bernardino Valley Municipal Water District
    San Bernardino Valley Water Conservation District
    San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone PM-2
    East Valley Water District
    County Service Area SL-1
    County Service Area 70

    San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, CSA SL-1 and CSA 70 will be detached through successful completion of this reorganization. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries as they are regional in nature.

11. The annexation proposal complies with Commission policies and directives and State law that indicate the preference for all island areas to be included within the boundaries of the City surrounding them to provide for a more efficient and effective service delivery system.

12. All notices required by State law and local Commission policies have been provided. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations. To date, verbal and written expressions of protest or opposition to these annexations and the island annexation provisions has been received.

13. The study area can benefit from the availability of municipal-level services from the City of San Bernardino and have benefited from City level fire protection services through contract with the County.

14. This proposal will have minimal effect on the City of San Bernardino's ability to achieve its fair share of the regional housing needs as it is primarily built-out residential uses.

15. With respect to environmental justice, the reorganization area will benefit from the extension of services and facilities from the City and, at the same time, will not result in unfair treatment of any person based upon race, culture or income.

16. The County of San Bernardino and the City of San Bernardino have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code. Renegotiation of the property tax transfer may be requested due to the modification in boundaries. This process is outlined in Revenue and Taxation Code Section 99(b) (7).

17. The maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

CONCLUSION:

It is staff's position that LAFCO 3067D must be approved by the Commission without protest by landowners and registered voters. This position is based upon the factors outlined in Government Code Sections 56375(a) and 56655. In addition, it is the staff's position that the Commission is required to makes the mandatory determinations outlined in Section 56375.3.

Approval of this reorganization proposal will provide a clear delineation of law enforcement responsibility, will provide for the transfer of the full revenue stream attributable to fire protection and paramedic service to the City which is currently providing the service, and will define the responsible agency to turn to for needed road improvements. Approval of this proposal addresses the needs for service now and in the future. It is the staff position that the territory complies with the statutorily required factors; therefore, the Commission is required to approve this proposal, regardless of any protest that might be submitted at the hearing. State law also requires the Commission to waive the protest hearing on this proposal, and staff's recommendation includes that action as part of its approval of this proposal.

RECOMMENDATION:

The staff recommends that the Commission approve LAFCO 3067D by taking the following actions:

1. Adopt the Statutory Exemption that has been recommended for this proposal, and direct that the Notice of Exemption be filed within five (5) days of this action;

2. Modify LAFCO 3067D as presented to the Commission to include the detachment from the San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1;

3. Approve LAFCO 3067D – Reorganization to include City of San Bernardino Annexation No. 361 as an island annexation, as defined in Government Code Section 56375.3, with the following terms and conditions:

    a. That the City of San Bernardino's 7.75% Utility Users Tax on properties will not be extended to the annexation area;

b. All streetlights currently the responsibility of County Service Area SL-1 within the annexation areas shall be transferred to the City of San Bernardino upon successful completion of the annexation. The County Special Districts Department shall prepare the appropriate documentation to transfer the lights, LAFCO staff shall verify the data, and the City of San Bernardino shall sign the authorization form requesting Southern California Edison to transfer the specific lights to the City of San Bernardino accounts; and,

c. The standard terms and conditions of approval that include the "hold harmless" clause for potential litigation.

4. Waive protest proceedings, as required by Government Code Section 56375.3; and,

5. Adopt LAFCO Resolution #3074 setting forth the Commission's findings and determinations concerning this proposal.