

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: OCTOBER 10, 2017 
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
SAMUEL MARTINEZ, Assistant Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #5: LAFCO 3220 – Reorganization to include Annexation to the City of Chino and Detachment from County Service Areas 70 and SL-1 (Pipeline Island)

INITIATED BY:

City of Chino Council Resolution

RECOMMENDATION:

Staff recommends that the Commission approve LAFCO 3220 by taking the following actions:

1. Adopt the Statutory Exemption that has been recommended for this proposal, and direct the Executive Officer to file a Notice of Exemption within five (5) days of this action;
2. Approve LAFCO 3220, as an island annexation, as required by Government Code Section 56375(a)(4), with the standard terms and conditions that include the “hold harmless” clause for potential litigation;
3. Waive protest proceedings, as required by Government Code Section 56375.3; and,
4. Adopt LAFCO Resolution #3251 setting forth the Commission’s findings and determinations concerning this proposal.

BACKGROUND:

In May 2017, the City of Chino (hereafter the “City”) submitted an application to annex an area identified as the “Pipeline Island” (LAFCO 3220), which is a reorganization that

annexes the area into the City under the special “island annexation” provisions outlined in Government Code Section 56375.3 and detaches the overlying County Service Areas 70 and SL-1. The Pipeline Island encompasses approximately 40 acres and is generally located east of Pipeline Avenue between Hacienda and Chino Avenues within the City’s western sphere of influence. Location and vicinity maps are included as Attachment #1 to this report.



The City of Chino initiated the annexation of the Pipeline Island to allow for the development of Tentative Tract Map (TTM) 18903, a proposed 38-lot single-family residential development within the reorganization area. The proposed annexation is required in order to connect to the City’s water and sewer facilities¹. In implementing its Municipal Code requirements, the City however, has opted to annex the entirety of the Pipeline Island in order to create a logical boundary for the City along Pipeline Avenue.

¹ The City of Chino’s Resolution No. 2006-028 states, “...any parcel(s) contiguous to the City boundary, requesting sewer service, may be required to annex to the City. At the time of the request, if annexation is determined by the City to not be feasible, an irrevocable agreement to annex to the City must be executed.”

**ISLAND ANNEXATION PROVISIONS
(Government Code Sections 56375(a)(4), 56375.3 and 56375.4)**

Government Code Section 56375(a)(4) requires the Commission to approve the annexation of unincorporated “substantially surrounded” island territory, initiated by resolution of the affected City, if several determinations are made. In addition, Code Section 56375.3 requires the Commission to approve the annexation of island territory without the ability of protest if several basic findings are made concerning the size of the island, the configuration of city boundaries, the lack of prime agricultural land within the island area, the presence of development in the area, and the ability of the area to benefit from or use municipal services from the City. The Commission is required to evaluate an island annexation application against the criteria outlined and make specific determinations regarding their proposal’s compliance with these provisions.

The specific evaluation criteria for the Pipeline Island pursuant to Section 56375.3 is as follows:

- The reorganization is initiated on or after January 1, 2000 and is proposed by resolution adopted by the affected City; in this case, the City of Chino initiated the proposed reorganization by adoption of a resolution of initiation, Resolution No. 2017-016, on April 18, 2017;
- The territory does not exceed 150 acres; the reorganization area is 40 +/- acres and constitutes the entire island of unincorporated territory;
- The territory is totally or substantially surrounded; the reorganization area is substantially surrounded as defined by Commission policy, being 75% surrounded by existing City of Chino boundaries on the north, east, and south;
- The territory is substantially developed or developing. This determination is based upon the fact that public utilities are available within the area, there are public improvements present within the area, and there are physical improvements on many of the properties;
- The territory is not prime agricultural land as such is defined by LAFCO statutes; the entire reorganization area has been developed for a use other than agricultural use and does not meet any of the qualifications identified in Section 56064. In addition, the California Department of Conservation’s Division of Land Resources Protection (Farmland Mapping and Monitoring Program) classify the entire area as Urban and Built-Up Land; and,
- The territory will benefit from the reorganization or is receiving benefits from the city; in this case, the reorganization area will benefit from the annexation and currently receives the benefit of receiving water service from the City. In addition,

a parcel within the reorganization area already receives the benefit of sewer service from the City under an existing out-of-agency service contract.

In accordance with the provisions of Government Code Section 56375.4, “[t]he authority to initiate, conduct, and complete any proceeding pursuant to subdivision (a) of Section 56375.3 does not apply to any territory that, after January 1, 2014, became surrounded or substantially surrounded by the city to which annexation is proposed...”. The Pipeline Island existed on January 1, 2014, with its northern boundary established in 1978 and the southwestern boundary becoming a part of the city in 1993.

Staff has also reviewed the provisions of the Commission’s additional policies related to the processing and evaluation of island annexation proposals. Under the Commission’s additional policies, only a determination of policy B applies to the Pipeline Island proposal. In this case, it has been determined that the City of Chino conducted the required community outreach/education meeting on February 15, 2017. Community meeting materials are included as Attachments #3 to this report.

Based upon the information outlined above, it is the staff’s position that the mandatory determinations are clear; therefore, the Commission is:

1. Required by Government Code Section 56375(a)(4) to approve the proposal as submitted by the City of Chino; and,
2. Required to approve it without the ability for protest from landowners and registered voters within the area as required by Government Code Section 56375.3.

The following provides a summary of the balance of the issues which the Commission reviews and considers in any jurisdictional change – boundaries, land uses, service delivery and the effect on other local governments, and environmental considerations.

BOUNDARIES:

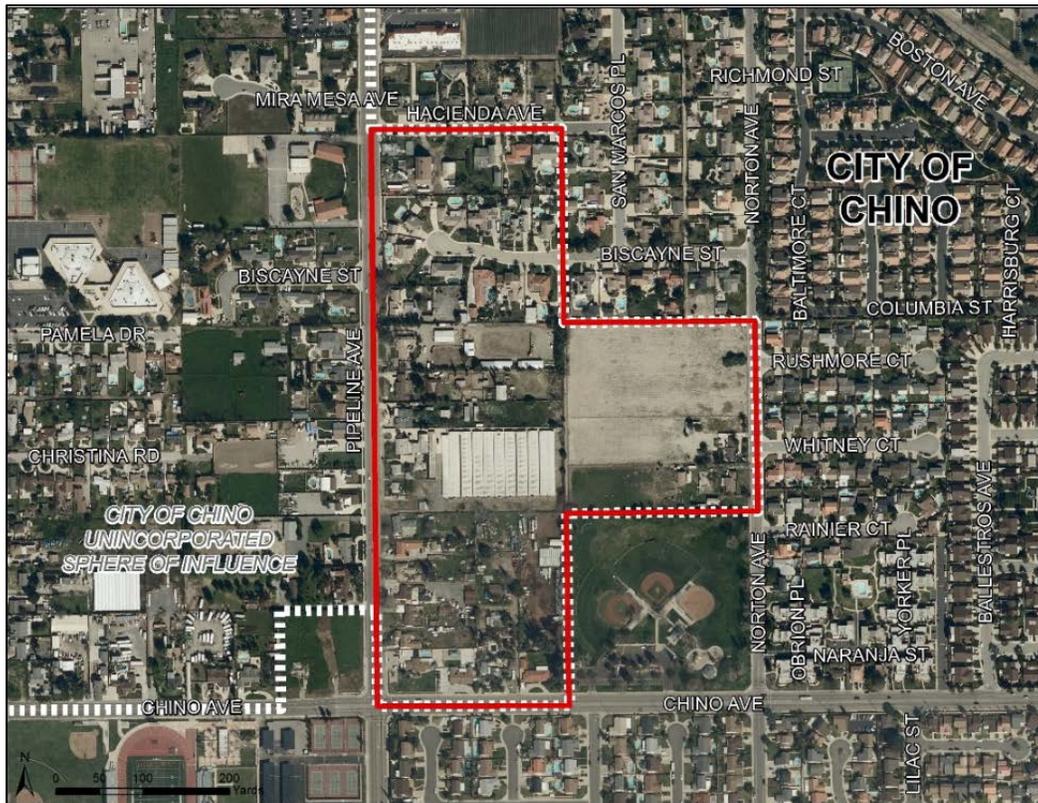
The reorganization area encompasses approximately 40 acres, generally bordered by Hacienda Lane and parcel lines (existing City of Chino boundary) on the north, parcel lines and Norton Avenue (existing City of Chino boundary) on the east, Chino Avenue and parcels lines (existing City of Chino boundary) on the south, and Pipeline Avenue on the west within the City of Chino’s western unincorporated sphere of influence except for the southwest corner, which is already within the City of Chino’s existing boundary.

No boundary issue has been identified. It is LAFCO staff’s position that this reorganization proposal provides for a logical boundary since it removes a substantially surrounded unincorporated island territory within the City of Chino’s sphere of influence.

LAND USE:

Existing Uses:

The reorganization area is a mix of residential development, a preschool/daycare facility, and vacant lands. Existing uses directly surrounding the reorganization area include residential development on the north, east and south (with a park facility on the southeast corner and a vacant parcel on the southwest corner) within the City of Chino and a mix of residential development and a church facility on the west within the unincorporated County area. An aerial display of the general vicinity is shown below:



County's Land Use Designation:

The County's current land use designation for the entire reorganization area is RS-20M (Single Residential, 20,000 square foot minimum lot size), which provides sites for single-family residential uses and other similar and compatible uses.

City's General Plan:

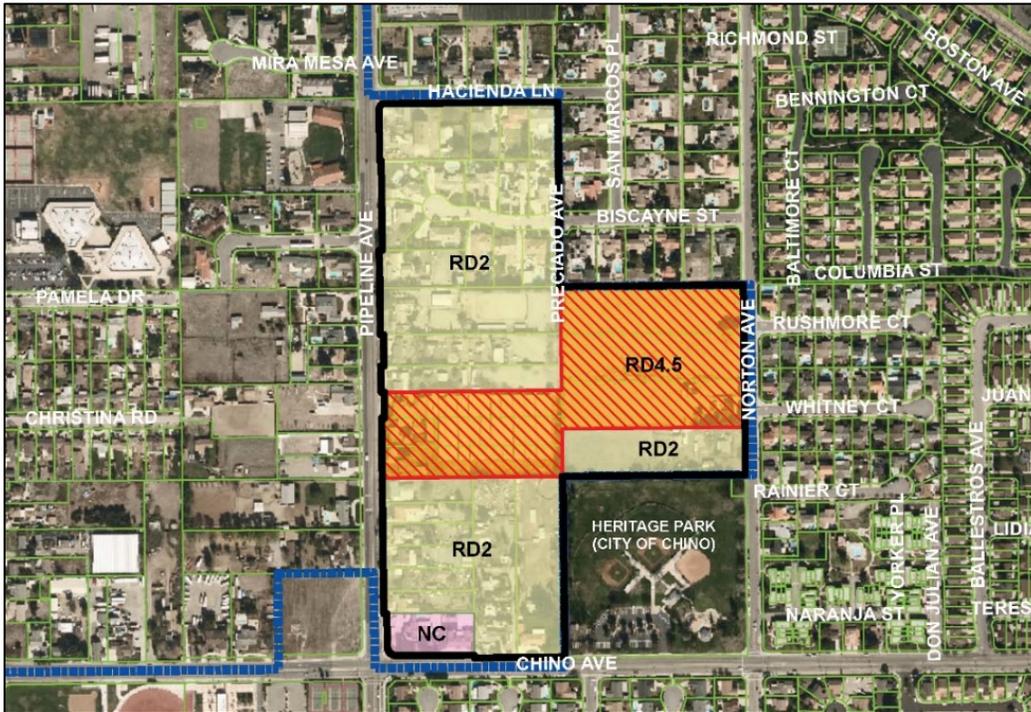
The City's General Plan designate the reorganization area as RD2 (Residential, 2 units/acre) and NC (Neighborhood Commercial).



The City’s approval of its Chino Annexation Area Project included a General Plan Amendment to change approximately 12 acres of the RD2 designation to RD4.5 (Residential, 3 to 4.5 units/acre) and approximately 8 acres of the NC designation to RD2. It should be noted that both the County’s CN (Neighborhood Commercial) and the City’s NC designations are intended to be in close proximity to residential uses; therefore, the land use determinations between the City and County are generally compatible.

City’s Pre-Zone Designation:

The City of Chino pre-zoned the reorganization area as part of its approval process to RD2 (approximate 24 acres) consisting of the existing single-family homes located to the north and south sides of the reorganization area, RD4.5 (approximately 12 acres) along the center section of the reorganization area to accommodate the proposed TTM 18903 with 38 single-family homes, and CN (approximately 1.1 acres) at the southwest corner of the reorganization area to allow for the continuation of the preschool/daycare facility. These pre-zone designations were determined through the City’s consideration of Ordinance No. 2017-006, which was adopted on May 2, 2017.



These pre-zone designations area consistent with the City's General Plan for the reorganization area and are also consistent with surrounding land uses.

Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for a period of two (2) years following annexation. The law allows for a change in designation if the City Council makes the finding, at a public hearing, that a substantial change has occurred in circumstances that necessitate a departure from the pre-zoning outlined in the application made to the Commission.

Land Use Issues:

One issue that was expressed during the City's process was the NC (Neighborhood Commercial) designation on the southern piece of the reorganization area. This has been resolved through the General Plan Amendment and pre-zoning that removed the commercial designation on most of the southern area except for the preschool/day care facility, which is the only parcel left that has the General Plan/pre-zone designation of NC.

Another concern raised was the land use compatibility of the project with the surrounding neighborhood. It was identified that the project, which was originally planned for 44 single-family residential units, was too dense with traffic impacts to surrounding streets particularly the connection to Preciado Avenue. The developer has since revised the project by reducing the number of units to 38 and changed the internal street configuration to try to address the concerns raised related to traffic.



Original Proposal (44 Units)



Revised Proposal (38 Units)

The revised project has also resulted in the change in density of the overall project from 4.5 units per acre to 3.1 units per acre.

Other concerns expressed by landowners and residents revolved around their ability to maintain their properties as they currently do in the County including whether or not they could continue to keep their animals, any improvements made on their properties, RV parking, etc. The City has responded to these concerns by indicating *“that all existing legal uses and improvements within the reorganization area, as well as all legal non-conforming uses and improvements that were established through the County, shall be grandfathered-in the City.”*

Other land use issues related to the actual project (e.g. street/sidewalk improvements, easements, etc.) that either remain outstanding, are being negotiated upon and/or will be negotiated by the parties involved, are not a part of the LAFCO process nor are these issues contingent on the LAFCO approval process.

SERVICE ISSUES AND EFFECTS ON OTHER LEVELS OF GOVERNMENT:

In every consideration for jurisdictional change, the Commission is required to look at the existing and proposed service providers within an area. County Service Area 70 (multi-function entity) and County Service Area SL-1 (streetlighting entity) are the only County service providers within the reorganization area affected by the change. In addition, the following regional entities overlay the reorganization area: Chino Valley Independent Fire Protection District, West Valley Mosquito and Vector Control District, Inland Empire Resource Conservation District, Chino Basin Water Conservation District, Inland Empire Utilities Agency and its Improvement District No. C (wastewater treatment services), and the Metropolitan Water District of Southern California (the State Water Contractor).

The application includes a plan for the extension of services for the reorganization area as required by law and Commission policy (included as part of Attachment #2 to this report). The Plan for Service, which was prepared by the Zimmerman Group and was

certified by the City, includes a Fiscal Impact Analysis indicating that the project will have a positive financial effect for the City for the projected five years. In general, the Plan identifies the following:

- Wastewater collection services is already provided to one of the properties with the reorganization by the City. There is an existing 18-inch sewer main in Pipeline Avenue. The development of TTM 18903 will connect to the existing sewer main in Pipeline Avenue.

Wastewater treatment will be the responsibility of the Inland Empire Utilities Agency.

- Water service is already provided to the reorganization area by the City. No change in this service will take place upon completion of the reorganization. The development of TTM 18903 will connect to the existing 8-inch water main in Pipeline Avenue.
- Law enforcement responsibilities, which are currently provided by the County Sheriff's Department through its contract with the City of Chino Hills for police services, will transition to the City of Chino's Police Department following the completion of the reorganization. The City's Police Department is located at 5450 Walnut Avenue, Chino, which is approximately 2.5 miles from the proposal area.
- Solid waste services, currently provided by Waste Management within the reorganization area, will continue to serve the area upon completion of the reorganization since the City also contracts with Waste Management for its services.
- Fire protection and paramedic services are currently provided by the Chino Valley Independent Fire Protection District. No change will occur to this service provider through the reorganization. In relation to the District's fire stations, the reorganization area is 1.4 miles away from its Station #65 and is 1.7 miles from its Station #61.

It is the position of LAFCO staff that LAFCO 3220 is a straightforward and logical extension of service delivery by the City of Chino. As required by Commission policy and State law, the Plan for Service shows that the extension of the City's services will maintain, and/or exceed, current service levels provided through the County and is determined to be sustainable for the foreseeable future as evidenced by the Fiscal Impact Analysis.

ENVIRONMENTAL CONSIDERATIONS:

The City of Chino adopted a Mitigated Negative Declaration that was prepared for its Chino Annexation Area Project, which pre-zoned the entirety of the reorganization area. However, the Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed this proposal and has indicated that it is his recommendation that the reorganization proposal 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 being required by Statute to approve the island proposal. Such a "ministerial action" is exempt from environmental review pursuant to Section 15268 of the State CEQA Guidelines. Therefore, it is staff's recommendation that the Commission adopt a Statutory Exemption for this proposal.

CONCLUSION:

It is the staff's position that LAFCO 3220 is a ministerial action – one which the Commission has no discretion over and must approve. This position is based on the requirements set forth in Government Code Section 56375(a)(4) that state, "a Commission shall not disapprove [emphasis added] an annexation to a city, initiated by resolution, of contiguous territory that is... (A) Surrounded or substantially surrounded by the city to which the annexation is proposed..." or "(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3."

It is the staff's position that the Commission is required to make the mandatory determinations outlined in Section 56375.3 and its supplemental policies outlined in Section 56375.4; therefore, no protest proceeding will be required. We believe that those determinations are easily made in this case:

- The City of Chino initiated the proposed reorganization by adopting a resolution of initiation on April 18, 2017;
- The reorganization area comprises a total of 40 +/- acres, which makes the island territory less than the 150-acre threshold and constitutes the entire island of unincorporated territory;
- The reorganization area is 75 percent surrounded by the City of Chino and is wholly within the City of Chino's sphere of influence;
- The reorganization is substantially developed or developing based on the presence of existing development in the area and the availability of public services as indicated in the Plan for Service;
- The reorganization area does not contain any prime agricultural land; and,

- The reorganization will benefit from the annexation to the City as reflected in the Plan for Service and the area is already benefiting from the direct receipt of water service from the City as well as a property already benefitting from the receipt of sewer service from the City.

It is also staff's determination that this proposal complies with Government Code Section 56375.4 which requires that the island be created prior to January 1, 2014. In addition, this proposal complies with the Commission's policies related to the processing of islands in that the City has conducted a public relations/education effort prior to the consideration of the proposal by the Commission.

For all the reasons outlined above, and throughout the staff report, LAFCO staff recommends approval of LAFCO 3220, the Pipeline Island. If the Commission concurs with the staff determinations related to the statutorily required determinations, then it is required to approve this proposal, regardless of any protest that might be submitted for this item.

DETERMINATIONS:

The following determinations are required to be provided by Commission policy and Government Code Section 56668 for any change of organization/reorganization proposal:

1. The County Registrar of Voters Office has determined that the reorganization area is legally inhabited containing 58 registered voters as of June 27, 2017.
2. The County Assessor's Office has determined that the assessed valuation of land and improvements within the study area is \$16,645,803 (\$7,245,205--land; \$9,400,598—improvements).
3. The reorganization area is within the sphere of influence assigned the City of Chino.
4. Commission review of this proposal has been advertised in the *Inland Valley Daily Bulletin*, a newspaper of general circulation within the reorganization area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.
5. LAFCO staff has provided individual notice to the landowners and registered voters within the reorganization area (totaling 94 notices) and to landowners and registered voters surrounding the reorganization area (totaling 2,211 notices) in accordance with State law and adopted Commission policies. Comments from landowners/registered voters and any affected local agency in support or

opposition will be reviewed and considered by the Commission in making its determination.

6. The City of Chino has pre-zoned the reorganization area to RD2 (Residential, 2 units/acre), RD4.5 (Residential, 3 to 4.5 units/acre) and NC (Neighborhood Commercial). These zoning designations are consistent with the City's General Plan. 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.
7. The Southern California Associated Governments (SCAG) adopted its 2016-2040 Regional Transportation Plan and Sustainable Communities Strategy pursuant to Government Code Section 65080. LAFCO 3220 has no direct impact on SCAG's Regional Transportation Plan.

The Sustainable Communities Strategy includes, among others, strategies that support compact infill development as well as expanded housing and transportation choices, which approval of LAFCO 3220 will support.

8. The Commission's Environmental Consultant, Tom Dodson and Associates, has indicated that the review of this reorganization proposal 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)(4), the Commission has no discretion in its action -- it must approve the proposal. 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 #4 to this report.
9. The area in question is presently served by the following local public agencies:

- County of San Bernardino
- Chino Valley Independent Fire Protection District
- West Valley Mosquito and Vector Control District
- Inland Empire Resource Conservation District
- Chino Basin Water Conservation District
- Inland Empire Utilities Agency and its Improvement District No. C (regional wastewater treatment provider)
- Metropolitan Water District of Southern California (State Water Contractor)
- County Service Area SL-1 (street lighting)
- County Service Area 70 (multi-function unincorporated area Countywide)

County Service Area SL-1 and County Service Area 70 will be detached as a function of the reorganization. None of the other agencies are affected by this proposal as they are regional in nature.

10. A plan was prepared for the extension of services to the reorganization area by the City, as required by law. The Plan for Service, which was prepared by the Zimmerman Group and was certified by the City, indicates that the City can maintain and/or improve the level and range of services currently available in the area. A copy of this plan is included as a part of Attachment #2 to this report. The Plan for Service and Fiscal Impact Analysis have been reviewed and compared with the standards established by the Commission and the factors contained within Government Code Section 56668. The Commission finds that the Plan for Service and the Fiscal Impact Analysis, conform to those adopted standards and requirements.
11. The reorganization area can benefit from the availability and extension of municipal services from the City of Chino and is already benefitting from the receipt of water service from the City. In addition, a parcel within the reorganization area is also benefitting from the receipt of sewer service from the City.
12. The reorganization proposal complies with Commission policies that indicate the preference for areas proposed for future development at an urban-level land use to be included within a City so that the full range of municipal services can be planned, funded, extended and maintained. It is also consistent with State law and complies with Commission policies that indicate the preference for all island areas to be included within the boundaries of the City surrounding them.
13. This proposal will assist the City in its ability to achieve its fair share of the regional housing needs since the reorganization area includes the area for TTM 18903, which is proposed to be developed with 38 single-family residences.
14. With respect to environmental justice, which is the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services, the following demographic and income profile was generated using ESRI's Community Analyst within the City of Chino and within and around the reorganization area (2017 data):

Demographic and Income Comparison	City of Chino (%)	Subject Area & adjacent Unincorporated Sphere (%)
Race and Ethnicity		
• African American Alone	6.7 %	3.5 %
• American Indian Alone	1.0 %	1.3 %
• Asian Alone	11.7 %	7.8 %
• Pacific Islander Alone	0.2 %	0.1 %
• Hispanic Origin (Any Race)	57.3 %	56.7 %
Median Household Income	\$77,432	\$75,121

The reorganization area and the surrounding unincorporated sphere area already receive water from the City. Wastewater service, if required, is also available from the City through an out-of-agency service agreement for sewer service. Fire protection is already provided by the Chino Valley Independent Fire Protection District, which serves both the City and its entire unincorporated sphere. Nonetheless, the reorganization proposal is to annex the entirety of the substantially surrounded island. Therefore, the reorganization area will continue to benefit from the extension of services and facilities from the City and, at the same time, the approval of the reorganization to annex the entirety of the substantially surrounded island will not result in the deprivation of service or the unfair treatment of any person based on race, culture or income.

15. The County of San Bernardino and the City of Chino have successfully negotiated a transfer of property tax revenues that will be implemented upon completion of this reorganization. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.
16. The maps and legal descriptions, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

KRM/sm

Attachments:

- 1 -- Vicinity and Reorganization Map
- 2 -- City of Chino Resolution No. 2017-016, Application Form, Supplement Form, and Plan for Service including Fiscal Impact Analysis
- 3 -- Public Relations/Outreach Materials from the City of Chino's Neighborhood Meeting on February 15, 2017, as Required by Commission Policy
- 4 -- Response from Tom Dodson and Associates on Environmental Determination
- 5 -- Draft Resolution No. 3251