

**LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO**

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DATE: APRIL 11, 2005
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #7 – LAFCO #2978 – City of Upland Annexation No. 60

INITIATED BY:

City of Upland Council Resolution

RECOMMENDATION:

If the Commission chooses to modify the boundary for LAFCO 2978, identify the modification to be made and continue the consideration to the May hearing with the direction to staff to gather modified information, advertise the modification as necessary, and present a draft resolution for consideration.

However, if the Commission feels that adequate information has been provided by the City to support approval of the existing annexation proposal, it may take the following actions:

1. Take the following actions with respect to the environmental review:
 - a. Certify the Commission has reviewed and considered the Environmental Assessment Report (EAR) and Negative Declaration for College Heights Pre-Zone PZC-02-02 (SCH#2003021122) and Addendum #2 to EAR No. 1410 prepared by the City of Upland and found them to be adequate for Commission use as a Responsible Agency; and,
 - b. Determine that the Negative Declaration prepared by the City of Upland and the Addendum are adequate for the Commission's use to

- make its CEQA environmental determination as a Responsible Agency related to LAFCO 2978;
- c. Determine that the Commission does not intend to adopt alternatives or mitigation measures for this project and that no mitigation measures are included in the City's environmental documents; and,
 - d. Direct the Clerk of the Commission to file a Notice of Determination as a Responsible Agency within five days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the City, as lead agency, has paid said fees.
2. Approve LAFCO 2978, subject to the standard conditions of approval.
 3. Continue the adoption of a resolution setting forth the Commission's terms, conditions, findings, and determinations to the May 18, 2005 hearing as a consent item.

BACKGROUND INFORMATION:

LAFCO 2978 is a proposal to annex approximately 193+/- acres to the City of Upland initiated by the City Council through adoption of a resolution of application. The study area is a part of the much larger island area commonly known as "College Heights" within the City of Upland's southwestern sphere of influence. The Commission is quite familiar with the College Heights area as the original annexation of the entire island was terminated due to the registered voter opposition in November 2003. Since that time, the City has pursued the annexation of areas supported by the landowners. The City has indicated that its intent in submitting this application is twofold: (1) to improve public services to the area and (2) to remove a portion of an existing county island to provide a logical service boundary acknowledging those landowners who support annexation. In the present case, the Claremont Colleges and the Chino Basin Water Conservation District have indicated their support for annexation to the City of Upland in order to receive services to their respective lands.

This report will respond to the four areas that are required for Commission consideration: boundaries, land uses, service delivery and the effect on other local governments, and environmental considerations. In addition, it will include a presentation of the required determinations as outlined in Government Code Section 56668.

BOUNDARIES:

The boundaries of the proposal are generally bordered by Foothill Blvd. on the north (existing City of Upland boundary), a combination of Central Avenue and parcel boundaries on the east, Arrow Route on the south (existing City of Upland boundary) and the LA/San Bernardino County line on the west. Attachment #1 includes a vicinity map and location map of the area under consideration.

As these exhibits identify, the boundaries of the City’s application along its southern, western and northern edges close in the western end of the College Heights Island. The eastern boundary, however, utilizes a combination of the centerline of Central Avenue and parcel boundaries from 11th Street south to the City’s existing boundary creating a notch of unincorporated territory westerly of Central Avenue. The use of this boundary excludes residents and/or landowners who have historically opposed the City’s annexation attempts but who are currently receiving City water and two (2) who receive City sewer services. The eastern boundary causes concern for LAFCO staff as it creates an additional peninsula of County service in the overall area. A review of the vicinity map within Attachment #1 shows that there are a number of these peninsulas along the periphery of the remaining College Heights area, but the addition of yet another as the County’s responsibility continues to dwindle in the area is of concern. In addressing such a boundary concern, the Commission has three choices:

1. It may expand LAFCO 2978 to include the area from 11th Street southerly to the existing City boundaries to clarify city boundaries at the centerline of Central Avenue. Such an action would include one additional registered voter maintaining the area as legally uninhabited. The modification of the proposal boundary to include these eight (8) additional parcels would increase the valuation of the annexation by the following:

PARCEL NUMBER	LAND VALUE	IMPROVEMENT VALUE	TOTAL 2004 TAX ROLL VALUE
1007-301-04*	\$139,040	\$545,648	\$684,688
1007-301-05	\$69,520		\$69,520
1007-301-06	\$69,520		\$69,520
1007-301-07	\$244,481	\$884,206	\$1,128,687
1007-301-08	\$153,576		\$153,576
1007-301-09	\$160,012		\$160,012
1007-301-10	\$97,292	\$97,292	\$194,584
1007-301-11*	\$110,264	\$99,238	\$209,502
TOTAL	\$1,043,705	\$1,626,384	\$2,670,089

*Have existing sewer service from the City of Upland

Since the expansion would not change the status of the proposal to legally inhabited (the expansion area has only one registered voter), the determination of protest would be based upon the modified land value. An outline of these determinations is as follows:

- a. The current land value for protest purposes is \$23,164,580. This value has been developed through the determination of the County Assessor for private lands and their assignment of land value for protest purposes to the public lands within the area (these values are outlined under Finding #2 below). The known support for the annexation, as outlined to staff, includes the Claremont Colleges and the Chino Basin Water Conservation District (copies included as Attachment #3). This support represents a total land value of \$12,043,020, more than 50% of the value of the area which would indicate the successful completion of the proposal through the protest process.
- b. The modification of the boundary to include the additional eight (8) parcels would increase the total land value to \$24,208,285. This would reduce the known support for the annexation identified to LAFCO staff to less than the 50% threshold securing successful completion of the action.

Since the proposed expansion may reduce the support for annexation to below the 50% support threshold, the City of Upland has indicated that it does not support this modification.

2. Delete the area immediately west of Central Avenue from 11th Street north to Foothill Blvd., creating an eastern boundary solely defined by property ownership lines. This action would primarily include the lands in support of the City's annexation, the Claremont Colleges and the Chino Basin Water Conservation District, while precluding the creation of the small peninsula of unincorporated territory.

The City has indicated that it will continue to pursue the annexation of the balance of the College Heights island through additional actions to be presented to the Commission and could address this additional area. The City of Upland has indicated to staff that if a modification in the boundary of the application is determined to be required to address the peninsula, they would support this modification.

3. Accept the City's proposal as presented, with the understanding that the City of Upland has indicated its direction to initiate additional annexations to address the balance of the College Heights area.

The City has indicated that they would support the Commission's approval of their application as presented as it addresses those areas in support of annexation to the City of Upland, it addresses service delivery to lands developed or developing within the area for commercial and/or industrial uses, and with the understanding that the City continues to pursue the annexation of the balance of the College Heights island area.

Staff's recommendation would be to modify the boundary of the proposal to preclude the creation of another peninsula of territory for service by the County. This is on the basis that there is no known time schedule for future annexations to the City of Upland to address the remaining island.

However, if at the hearing the representatives of the City of Upland present information to the Commission that outlines the process for addressing the balance of the island and the issue of creating the peninsula of territory, the Commission can proceed with processing the current annexation application.

LAND USE:

The study area is currently a mix of vacant and developed lands. Surrounding uses include to the east commercial, industrial, and vacant lands with some scattered residential uses within the unincorporated County area; to the north (within the City of Upland) are Cable Airport (a private airport), commercial and industrial properties and some vacant lands; to the west, within Los Angeles County and the City of Claremont, are the Claremont Colleges facility and vacant lands, and to the south (within the City of Upland) are residential uses (multi- and single-family), commercial properties and vacant lands.

The City of Upland General Plan designation for this area is CI-S (Commercial Industrial Special Use Permit) and I/IS (Institutional/Institutional Special Use Permit). The land use determination for the study area was made by the City of Upland through its consideration of PZC-02-02 identified as the College Heights Pre-Zone in June 2003 related to the larger College Heights consideration. This pre-zone assigned the area of LAFCO 2978 a designation of Light Industrial (ML), Highway Commercial (CH) and Special Purpose (SP). The current County land use designations for this area include: Service Commercial (CS) generally along the Foothill Corridor; Community Industrial (IC) in the eastern portion of the site; Planned Development (PD) for the Claremont Colleges lands along the western boundary; and Resource Conservation for the mid-portion of the annexation generally owned by the Chino Basin Water Conservation District and the Monte Vista Water District.

The land use determinations between the City and County are generally compatible except for the lands currently designated Resource Conservation by the County General Plan. The County's land use determination of Resource Conservation does not allow development of structures within the area, while the City's land use determinations would allow for development of the area for industrial and/or commercial uses. The lands owned by the Chino Basin Water Conservation District have recently been designated as surplus by the Board of Directors and the District is currently entertaining negotiations for the sale of the property. The land uses anticipated for the area by the City General Plan and its pre-zoning reflect the need for the full range of urban-level services for the area.

SERVICE ISSUES:

The City of Upland has submitted a plan for the extension of municipal services as required by law, and that Plan is attached to this report for Commission review (a part of Attachment #2). Highlights of the Plan include the following:

- Sewage collection services are currently available from infrastructure traversing some of the annexation study area. Some of the existing commercial uses along Central Avenue are currently connected to the City's sewer system and pay a premium rate for such service. Upon annexation, the monthly sewage charge for these individuals will fall to the standard in-City rate, an approximate one-third reduction. For new development, sewer facilities will be extended at property owner expense. The City of Upland will be responsible for wastewater collection and treatment will be provided by the Inland Empire Utilities Agency at one of its regional treatment plants.
- Water service is currently provided by the City of Upland to the developed properties within the annexation area. The only change anticipated is that through annexation, the monthly sewer charges will be cut by one-third. Residents connected to City water service currently pay 1½ times the in-City rate.

Within the annexation boundaries are two areas within the Monte Vista Water District. These sites are owned by the District and were included within the District's boundaries to remove them from the County assessment rolls for property tax purposes. Monte Vista Water District does not provide retail water service within the area of consideration.

- Law enforcement responsibilities will shift from the County Sheriff's Department, which operates out of the Chino Hills substation (approximately 10 miles from the area), to the City of Upland. The City indicates that its police department will need additional personnel when the entirety of the island area is annexed to provide an increased beat patrol and additional law enforcement measures such as neighborhood watch, etc. The financing of this augmented service will be through the ad valorem property tax received by the City from this area.
- Solid waste services are currently provided within the annexation area by Burrtec Waste Industries, also the City provider of this service. Residents and commercial operators will see some changes in service identified in the Plan as: Residential rate in the County is \$19.03 per month for a 90-gallon container; while in the City the rate is \$21.50 per month for a 65- or 95-gallon refuse container, a 65-gallon recycling container, and a 65- or 95-gallon green waste container. Commercial accounts start at \$85.94 based upon size and frequency of pickup in the County; while the City rates start at \$71.45 depending upon size and frequency of pickup.
- Library service will be provided by the City of Upland Library located within the City Hall complex.
- The only financial effect to the existing and future business owners within the area of consideration would be the imposition of the City's business license and sign registration services.
- Fire protection services are currently provided by County Service Area 38 (CSA 38) and will be replaced by the City of Upland fire and emergency medical services. The current CSA 38 fire service is provided from County Station #12, located at 24th Street and Euclid Avenue, within the community known as San Antonio Heights. This station is located approximately 4.5 miles away from the annexation area.

The City Plan for Service indicates that its Fire Department can provide the necessary service to this site from its Station No. 3, located less than a mile from the eastern boundary of the annexation area. Paramedic services will be included on all City of Upland equipment, a service not currently available through CSA 38.

The County's Consolidated Fire Agency has indicated that it does not have a concern with the annexation. In the past, concern has been expressed over the dwindling revenues available for maintenance of fire

protection services in this portion of the Valley. The response provided by the Consolidated Fire Agency (Attachment #5) indicates that through the anticipated county fire reorganization, its concerns regarding future financing will be addressed.

As required by Commission policy and State law, the Plan for Services submitted by the City of Upland shows that the extension of its services will maintain, and/or exceed, current service levels provided through the County.

ENVIRONMENTAL CONSIDERATIONS:

As a function of pre-zoning, the City of Upland acted as the lead agency for environmental review and has conducted the environmental assessment for the annexation through its Addendum #2 to the Environmental Assessment Report (EAR) No. 1410 for the College Heights Pre-Zone No. PZC-02-02, which also addressed the environmental consequences of annexation. The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed the City of Upland's Initial Study and Negative Declaration for EAR 1410 and Addendum #2 to that document and determined that they are adequate for the Commission's review of the proposed annexation as a responsible agency, and his response is attached to this staff report. Mr. Dodson has indicated that the necessary environmental actions to be taken by the Commission, as a responsible agency under CEQA, are as follows:

1. Indicate that the Addendum #2, the Environmental Assessment Report and the Negative Declaration adopted by the City of Upland have been independently reviewed and considered by the Commission, its staff, and its Environmental Consultant;
2. Determine that the Addendum #2, the Environmental Assessment Report and Negative Declaration are adequate for the Commission's use as a CEQA Responsible Agency for its determinations related to LAFCO 2978;
3. Determine that the Commission does not intend to adopt alternatives or mitigation measures for this project, and that no mitigation measures are included in the City's environmental documents; and,
4. Direct the Clerk to file the Notice of Determination within five days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the City, as lead agency, has paid said fees.

CONCLUSION:

The issue of the boundary proposed for annexation by the City of Upland is of concern to LAFCO staff based upon its exclusion of the lands generally west of Central Avenue, south of 11th Street. Staff's first choice would be to either expand the proposal to include the peninsula area omitted by the City southerly of 11th Street and west of Central Avenue or exclude the parcels fronting on Central Avenue from 11th Street northerly to Foothill Blvd. This would require continuation of the proposal to at least the May 18th hearing to allow for gathering of additional information, provision of required notices and advertisement of the expanded consideration. That recommendation is outlined as the first item under the Recommendation Section of this report.

However, if a compelling case is presented by the representatives of the City of Upland to allow this proposal to proceed on the basis that the balance of the area will be addressed in the near future, then the Commission can choose to approve the proposal as presented to it. That approval would be based upon policy standards developed by the Commission, and those outlined in State law, as follows:

- ❑ The area is developed or developing at urban levels of land use. Those parcels currently undeveloped are anticipated to develop at a level that will require a broad range of municipal services. Of those services needed, sewage collection services are only available within the area through the City of Upland.
- ❑ It is clear that this area has benefited, and will benefit, from the extension of the City's services. Some of the area is currently provided sewer service from the City of Upland through out-of-agency service contracts, while developed parcels on septic systems currently receive their water service from the City of Upland.
- ❑ The site is adjacent to urban development and the annexation will allow for the coordination of services and necessary improvements within the overall area as vacant lands transition to urban uses.

FINDINGS:

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

1. State law indicates that an area containing 12 or more registered voters is "legally inhabited." The Registrar of Voters Office has determined that

the study area is legally uninhabited, containing 6 registered voters as of March 29, 2005.

2. The County Assessor has determined that the total assessed value of land and improvements within the study area is \$25,684,806 (land value is \$11,987,580, and improvement value is \$13,697,226). Pursuant to the provisions of Government Code Section 56126, the County Assessor was requested to assign values to the public lands within the annexation site for protest purposes only. The values for these publicly held lands are listed separately as shown below for the individual parcels:

LANDOWNER NAME	ASSESSOR PARCEL NUMBER	LAND VALUES AS OF 2/22/2005 FOR PROTEST PURPOSES
Chino Basin Water Conservation District	1007-021-03	\$1,674,000
	1007-021-04	\$535,000
	1007-021-06	\$1,066,000
	1007-021-07	\$1,066,000
	1007-021-12	\$782,000
	1007-021-13	\$622,000
	1007-031-01	\$568,000
	1007-031-02	\$343,000
	1007-031-03	\$228,000
	1007-031-06	\$1,054,000
	1007-031-07	\$1,092,000
	1007-031-09	\$74,000
	1007-031-10	\$846,000
	1007-321-04	\$31,000
	1007-321-05	\$155,000
	1007-321-08	\$24,000
	1007-321-09	\$95,000
	1007-321-11	\$140,000
	1007-331-01	\$141,000
	1007-331-03	\$155,000
	1007-331-04	\$151,000
	1007-331-05	\$32,000
	1007-331-06	\$87,000
Total CBWCD		\$10,961,000
Monte Vista Water District	1007-041-08	\$47,000
	1007-051-23	\$26,000
Total MVWD		\$73,000
San Bernardino County		

Flood Control District		1007-021-14		\$35,000
		1007-031-08		\$6,000
		1007-031-11		\$30,000
		1007-321-10		\$36,000
		1007-331-07		\$36,000
Total Flood Control District				\$143,000

3. The area is within the sphere of influence assigned the City of Upland.
4. Commission review of this proposal has been advertised in *The Sun* and the *Inland Valley Daily Bulletin*, newspapers 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.
5. LAFCO staff has provided individual notice to the landowners and registered voters within the annexation area (37) and to landowners and voters surrounding the study area (776) in accordance with state law and adopted Commission policies. To date, no written comments or protests to this proposal have been received from area landowners or registered voters.
6. The City of Upland has pre-zoned the study area for the following land uses: CH – Highway Commercial; ML – Light Industrial; and SP – Special Purpose (addressing the lands owned by the Claremont Colleges). This zoning designation conforms to the adopted General Plan for the City of Upland, is consistent with existing land uses within the area, and will take effect upon annexation. 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 Commission’s Environmental Consultant, Tom Dodson and Associates, has reviewed the City of Upland’s Addendum No. 2 to the Environmental Assessment Report No. 1410 for the College Heights Pre-zone No. PZC-02-02, the Environmental Assessment No.1410, and the Negative Declaration. Mr. Dodson has determined that these documents, taken together, are adequate for the Commission’s review of the proposed annexation as a responsible agency. The necessary actions to be taken by the Commission, as a responsible agency, are outlined in the narrative portion of this report.

8. The area in question is presently served by the following local agencies:

County of San Bernardino
Metropolitan Water District of Southern California
Inland Empire West Resource Conservation District
Inland Empire Utilities Agency and its Improvement District C
Chino Basin Water Conservation District
Monte Vista Water District (two parcels – one along Monte Vista Avenue and the other centered between Monte Vista and Central Avenues, north of 11th Street)
County Service Area 38 (fire protection)
County Service Area 70 (multi-function unincorporated area Countywide)

Detachment of CSA 38 and CSA 70 will automatically occur upon successful completion of this proposal as required by Government Code Section 25210.90. None of the other agencies are affected by this proposal as they are regional in nature.

9. Upon annexation, the City will extend its services as required by the progression of development. The City of Upland has submitted a plan for the extension of municipal services to the study area and certified the adequacy of the plan, as required by law. The financial information presented within the Plan for Service indicates that the extension of services can be maintained and operated through the existing revenue resources available through the transfer of property taxes, utility rates, and fees for service. This plan is attached for Commission review and indicates that the City can, at a minimum, maintain the level of service delivered and can improve the level and range of selected services currently available in the area.
10. Either the expansion or reduction of the proposal's boundary along the easterly side of Central Avenue will address the staff's concern that the boundary provide for a logical and orderly service boundary. The balance of the annexation proposal is consistent with State law and complies with Commission policies that indicate the preference for areas proposed for 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.
11. The developing portion of the study area can benefit from the availability and extension of municipal services from the City of Upland. The currently developed properties within the area proposed for annexation

have benefited from the receipt of City water service and some have benefited from the receipt of City sewer service through out-of-agency service contracts.

12. This proposal will not assist the City's ability to achieve its fair share of the regional housing needs as there is no residential component to the land uses anticipated for the area.
13. Staff attended a community meeting conducted by members of the City of Upland staff held on March 3, 2005 at City Hall. (A copy of the Agenda and handout materials is included as Attachment #4.) At that time, opposition was expressed by several landowners within the area; however, no official expression of opposition has been received by LAFCO staff as of the date of this report.
14. The County of San Bernardino and the City of Upland have successfully negotiated a transfer of property tax revenues that will be implemented upon completion of this annexation. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.
15. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

Attachments:

1. Maps of Annexation Area
2. City Application and Plan for Services
3. Letters of Support for Annexation from Claremont Colleges and Chino Basin Water Conservation District
4. Information Provided at City of Upland Sponsored Community Meeting
5. Letter from Consolidated Fire Agency
6. Response from Tom Dodson and Associates and City Environmental Documents