

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

175 West Fifth Street, Second Floor, San Bernardino, CA 92415-0490
• (909) 387-5866 • FAX (909) 387-5871
E-MAIL: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: JANUARY 12, 2004
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #5: LAFCO SC#203 – Irrevocable Agreement to Annex No. SSA-2003-06-01 for Sewer Service, City of Upland

SUBMITTED BY:

City of Upland on behalf of property owner

RECOMMENDATION:

- 1) For environmental review, take the following actions as a responsible agency:
 - a. Certify the Commission has reviewed and considered the environmental assessment and Negative Declaration with mitigation measures prepared by the County of San Bernardino for the Tentative Parcel Map 16234 to create seven (7) lots on 2.79 acres and a Conditional Use Permit to establish seven (7) speculative industrial buildings on 2.79 acres; and found them to be adequate for Commission use;
 - b. Determine that the Commission does not intend to adopt alternatives for this project, that all mitigation measures are the responsibility of the County of San Bernardino, not the Commission, and are self-mitigating through implementation of the adopted Conditions of Approval for the project; and,
 - c. Direct the Clerk to file the Notice of Determination within five working days.

- 2) Approve SC#203 authorizing the City of Upland to extend sewer services outside its boundaries to Assessor Parcel Numbers 1007-271-18 and 1007-271-20; and,
- 3) Adopt LAFCO Resolution #2798 setting forth the Commission's findings, determinations and approval of the agreement for service outside the City of Upland's boundaries.

BACKGROUND:

The City of Upland has submitted a request for approval of an out-of-agency service agreement that outlines the terms by which it will extend sewer service. The agreement relates to the parcels generally located on the north side of Arrow Route, approximately 380 feet west of Benson Avenue, in the southwestern portion of the City of Upland sphere of influence. Attachment #1 provides a location and vicinity map of the site.

The City, on behalf of the property owner, has requested that the Commission review and approve the extension of service pursuant to the provision of Government Code Section 56133. The following information identifies the current uses on the parcels:

- The south half of the site (a portion of APN 1007-271-20) is improved with a drive-through dairy mart and a small house (appears to be used as a real estate office). The project anticipates that these structures will be demolished. The existing uses are not currently connected to the City's sanitary sewer system but are connected to the City's water system.
- The northern half of the site is vacant land (a portion of APN 1007-271-20 and the whole of 1007-271-18).

The County of San Bernardino Land Use Services Department has processed the approval of Tentative Parcel Map 16234 and a Conditional Use Permit (CUP) for development of seven speculative industrial buildings on the site. The Conditions of Approval placed upon this project include the requirement for connection to the City of Upland sewer system (Conditions #9, #10 and #22 for the Tentative Parcel Map and #56, #57, and #65 for the CUP).

The City's application and supplemental response indicate that service will be provided to the proposed seven lot industrial development through extension of an 8-inch sewer main approximately 1400 feet easterly from the intersection of Hervey Avenue and Arrow Route. This sewer main extension will front parcels

currently within the County and the City has indicated that it has a “Sewer Reimbursement Agreement” that will apply to this facility. According to City staff, this reimbursement agreement will indicate that the City will act as the collection agent for the developer of the sewer main line and it will collect the funds until the sewer main is fully utilized. This agreement would be unaffected if the territory were to be annexed by the City.

Pursuant to the Commission’s application requirements for service contracts, information has been provided regarding all financial obligations for the extension of services outside an agency’s boundaries. The City has supplied LAFCO staff with information that relates to the costs for extension of service to these parcels. The City’s calculation of charges is based upon equivalent dwelling units; however for an industrial development, this factor is determined by the number of plumbing fixtures multiplied by the City’s sewage generation factor. In this case, that would represent 3.108 EDUs (7 buildings multiplied by the two fixtures in each building times the City’s rate of 5 fixture unit equivalents). The calculation of the charges based upon EDUs is:

Sanitary Sewage Facilities Expansion Fees (paid to Inland Empire Utilities Agency)	\$4,306 X 3.108 EDUs	\$13,383.05
Sewer Capital Cost Recovery Fees (since developer is extending the sewer main there are no sewer capital costs)		No Charge
TOTAL		\$13,383.05

In addition, the occupants of the seven (7) industrial buildings will be charged 1.5 times the in-city rate for sewer service. The higher rate charged to outside customers is intended to help offset the costs for service delivery outside the City’s corporate boundaries.

Authorization of this agreement by the Commission is required before the City of Upland can take the final actions to implement the terms of the agreement. In order for the development project to proceed, it must show proof of its ability to connect to the City of Upland sewer infrastructure (County Conditions of Approval, Items #9, #10, #22 for Tentative Parcel Map and Items #56, #57, and #65 for CUP).

The parcels proposed for service are contiguous to existing City boundaries along their southern border, Arrow Route. At the time the service contract was submitted, the City of Upland’s annexation of the entire “College Heights” island area (LAFCO 2941) was in process. The property owner asked that this out-of-agency service contract application be held in abeyance until a final

determination on the annexation application was made. The annexation was terminated November 20, 2003 due to registered voter protest; therefore, the City and property owner have requested that this contract be processed. The City has indicated that it will continue its efforts to address the College Heights Island area and this contract is considered an interim step for the area, allowing the proposed development to proceed while the City works towards addressing future annexations.

Staff has reviewed this application against the criteria established by Commission policy and Government Code Section 56133. The staff supports the City's request to provide sewer service by contract to these parcels since its facilities can be extended to serve the anticipated development, and there is no other existing entity available in the area to provide the level of service required by the project. In making its determinations, the Commission will need to find that the contract complies with the provisions of this code section and with the standards adopted by the Commission for implementing these provisions.

FINDINGS:

1. The area is within the sphere of influence assigned the City of Upland. The parcel identified as 1007-071-20 currently receives its water service from the City of Upland and the application requests the receipt of City of Upland sewer service to the newly created seven (7) parcel industrial development.
2. The Commission's authorization for serving the parcels outside the City's boundaries is considered to be perpetual (until such time as the area is annexed).
3. The service contract to be considered is for the ultimate provision of sewer service by the City of Upland. This contract will fulfill the requirements of the County, as identified in its Land Use Approval dated December 15, 2003, for the subdivision of the two existing parcels into seven (7) lots and the conditional use permit for the development of the seven industrial buildings. The approval of the contract will allow the City and property owner to finalize the agreement so that building plans for the site can be finalized with the County.
4. In December 2003, acting as the CEQA lead agency, the County prepared an environmental assessment for the Tentative Parcel Map and Conditional Use Permit to establish the seven (7) speculative buildings on 3.09 acres located on the north side of Arrow Route, west of Benson Avenue. This decision indicates that the project would not have a

significant effect upon the environment through its development under the Conditions of Approval imposed.

LAFCO Environmental Consultant, Tom Dodson and Associates, has provided a review of the County's initial study and Negative Declaration issued for this Tentative Parcel Map and CUP. Mr. Dodson's analysis has indicated that the County's initial study and Negative Declaration are adequate for the Commission's use as a CEQA responsible agency. The Commission will not be adopting alternatives or mitigation measures for this development, as these are the responsibility of the County and are considered self-mitigating through implementation of the Conditions of Approval. Attachment #4 provides a copy of Mr. Dodson's response and recommendation regarding the Commission's review and necessary actions to be taken.

KRM:

Attachments:

1. Vicinity Map and Map showing infrastructure
2. City Application and Irrevocable Agreement to Annex
3. County Conditions of Approval for CUP and Tentative Parcel Map
4. Tom Dodson and Associates response and County's environmental analysis of Tentative Parcel Map, and CUP
5. Draft Resolution #2798