

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

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DATE: OCTOBER 6, 2003
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #6: LAFCO #2941—City of Upland Annexation No. 56 (College Heights)

INITIATED BY:

City Council Resolution, City of Upland

RECOMMENDATION:

1. Take the following actions related to the environmental assessment of the project:
 - a. Certify the Commission has reviewed and considered the environmental assessment and Negative Declaration prepared by the City of Upland for College Heights Pre-Zone PZC-02-02 (SCH#2003021122) and found them to be adequate for Commission use as a Responsible Agency; and,
 - b. Determine that the Commission does not intend to adopt alternatives for this project; that there are no mitigation measures included in the City's environmental documents; and,
 - c. Direct the Clerk to file the Notice of Determination within five working days.
2. Approve LAFCO #2941 with the following conditions:
 - a. Prior to completion of the conducting authority proceedings, the City of Upland shall initiate annexation of the unincorporated

island of territory located along Ninth Street, west of Benson Avenue, within the southwestern City of Upland sphere, and;

- b. The City of Upland shall indemnify and hold the Commission harmless in any legal action brought against the Commission related to this proposal.
3. Adopt LAFCO Resolution #2786, setting forth the Commission’s findings, determinations, and conditions of approval.

BACKGROUND INFORMATION:

LAFCO 2941 is a proposal to annex approximately 342 +/- acres to the City of Upland, initiated by the City Council through adoption of a resolution. The study area is generally located in the southwestern portion of the City of Upland sphere of influence and is generally bordered by City of Upland boundaries on three sides, Foothill Blvd. on the north, Benson Avenue on the east, and Arrow Rte on the south. The western boundary line is the Los Angeles/San Bernardino County line abutting the City of Claremont. Attachment #1 includes maps of the area under consideration.

The discussion that follows will address the factors required to be considered by the Commission pursuant to Government Code Section 56668 regarding the proposed boundary of the annexation, the land use considerations, service provision to the area and adjacent communities, and the environmental review of the application.

BOUNDARY ISSUES:

As outlined above, the area proposed for annexation is currently bordered on three sides by the existing City of Upland boundaries and the City of Claremont, Los Angeles County line, on the fourth side. The identification of this area is important on the basis that Government Code Section 56375(a) states in part:

*“... a commission **shall not have the power to disapprove** an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following: (1) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general*

plan of the annexing city, and is not within the sphere of influence of another city...” (Emphasis added by LAFCO staff)

Therefore, if the Commission makes the following findings, it is staff's position that it will have no discretion in regard to the approval of this application. The findings contained within Government Code Section 56375(a) (1) for the area of LAFCO 2941 are addressed as follows:

1. Is the area surrounded or substantially surrounded by the City to which the annexation is proposed or by the city and a county boundary?

As identified above, the territory is surrounded on three sides by the City of Upland and the Los Angeles County line (corporate boundary of the City of Claremont) on the western edge.

2. Is the territory to be annexed substantially developed or developing?

Approximately 50% of the site is currently developed with a mix of residential, commercial and industrial uses as indicated in the City's application; the balance of the territory is proposed for development and infrastructure is planned to accommodate that growth.

3. Does the territory contain prime agricultural land as defined in Section 56064?

The area does not include any lands designated by the State as prime agricultural land as defined in the relevant Government Code Section. However, there are a few groves scattered in the area, but they do not appear to be productive.

4. Is the territory designated for urban growth by the general plan of the annexing city?

The County General Plan anticipates urban development for the bulk of the area proposed for annexation and identifies the area as Improvement Level 1, which indicates the most intensive level of development. The City General Plan and its Pre-Zoning have designated the area for Highway Commercial, Special Purpose, and Light Industrial uses – clearly anticipating urban growth within the area.

5. Is the territory within the sphere of influence of another city?

The area is wholly within the City of Upland sphere of influence.

On the basis of these findings, the staff position is that the Commission is required to approve this application and forward it for the required protest proceeding. The only element of discretion for the Commission relates to the consideration of the terms and conditions to be imposed. Staff will address that question in the narrative that follows.

There is an additional boundary issue related to this annexation which needs to be considered. Staff has conveyed the Commission's position to the City of Upland that in considering a "desirable" annexation, one that will bring with it financial and service advantages, the City should also look at its islands of unincorporated territory which may not have the same advantages.

One such area exists between the Cities of Upland and Montclair, along Ninth Street (area is shown on the vicinity map included as a part of Attachment #1). The Commission has previously determined that this area meets the criteria specified by Government Code Section 56375.3, statutes specifically enacted by the State Legislature to address island areas. That criteria is:

- It consist of less than 75 acres (the area is 38.82 +/- acres), is totally surrounded by city boundaries, and is within the city's sphere of influence proposed for annexation;
- It is substantially developed or developing;
- It is benefiting or could benefit from city services; and,
- It does not contain any prime agricultural lands.

The staff has reviewed the question with members of the City of Upland staff, who have indicated that the island is a part of their plans, but not at the same time as the College Heights area. The Commission has approached its response as to how to handle these areas in two different ways:

- For the Cities of Rialto, Barstow, and Chino, the Commission acknowledged the commitment of the Cities to initiate the island within one year. During these hearings it was noted that there remained sphere territory contemplated for annexation within a possible five year period which could be used as a vehicle to achieve the desired goal if the City failed to fulfill its commitment.
- For the City of Ontario, the Commission took a different approach since there was no further sphere of influence territory to use as a vehicle to

achieve the change. The Commission required as a condition of annexation that the City of Ontario initiate the annexation of the island territory prior to completion of the Agricultural Preserve Area Annexation.

In the current case, the City of Upland does have remaining territory within its sphere of influence; however, that area is known as the community of San Antonio Heights. This community has historically, and vehemently, opposed annexation. As a response to water quality issues, the City has agreed that it will not require its standard irrevocable agreement to annex in order to receive sewer service from the City for the community of San Antonio Heights (terms of the Memorandum of Understanding with the County, circa 1989). In addition, the Commission has voiced its concern regarding the piecemeal approach to identifiable communities and indicated its preference that they be addressed in their entirety. All of this points to the unlikely possibility of another annexation being proposed by the City of Upland prior to the sunset date of the island annexation provisions in 2007 (identified in Government Code Section 56746). Therefore, the staff is recommending that the Commission condition the completion of this proposal on the initiation of the Ninth Street island area.

LAND USE ISSUES:

The study area is currently a mix of vacant, open space, and developed lands. Surrounding uses within the City of Upland include: to the north are commercial properties, the privately-owned and operated Cable Airport, sand and gravel mining operations, and scattered vacant lands; to the east are residential uses, commercial properties and a school, to the south are residential uses (multi- and single-family), commercial properties, and flood control uses. Land uses within Los Angeles County and the City of Claremont to the west are the Claremont College athletic field, mining basins and vacant lands (owned by the Claremont Colleges).

The City of Upland General Plan designations for this area include I/I-S (Institutional/Institutional Special Use Permit) for the lands west of Monte Vista Avenue, and CI-S (Commercial Industrial Special Use Permit) for the balance of the area. The land use determination for the study area has been made by the City of Upland through its consideration of PZC-02-02 identified as the College Heights Pre-Zone. Three zoning designations are included within the territory: Special Purpose (SP) for the territory westerly of Monte Vista Avenue (owned by the Claremont Colleges), Highway Commercial (CH) for the parcels along Foothill Blvd., both sides of Central Avenue, and the area north of 11th Street, west of Benson Avenue, and the balance of the territory is designated as Light Industrial (ML). The current County Land Use

designations for this area include: Planned Development (PD) along the LA County Line, Resource Conservation (allowing one unit per 40 acres); Service and General Commercial, and Community Industrial. The land use determinations are generally compatible and each anticipates 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 readily available from infrastructure traversing the area. Many of the existing commercial and residential uses are currently connected to the City's sewer system and pay a premium rate for such service. The extension of this service has been defined by a Memorandum of Understanding between the County and the City of Upland since 1989. Upon annexation, the monthly sewage charge 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 1 ½ times the in-City rate.
- 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 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.
- Solid Waste services are currently provided within the annexation area by Universal Waste Company. The City provider of this service is Burrtec

Waste Industries. State law requires that the existing refuse provider be allowed to phase out the service, for a period not to exceed five years. Residents and commercial operators will not see an immediate change in this service.

- The City of Upland will provide street sweeping services within the annexation area on a bi-weekly basis.
- 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 and paramedic 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 14th 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 and the Plan for Service identifies that response time is approximately 6.5 minutes.

The City Plan for Service indicates that its Fire Department can provide the necessary service to this site from its Station No. 3, located approximately one mile from the center of the annexation area. It is estimated that response time by the City Fire Department would be 3-5 minutes, depending on location. Paramedic services will be included on all City of Upland equipment, a service not currently available through CSA 38. The County has expressed its concern regarding the annexation of the area based upon its ongoing service responsibility to the San Antonio Heights area (northerly of the City boundary) which is partially funded from revenues attributable to the College Heights area.

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.

As noted above, the County of San Bernardino Fire Department has submitted its concern regarding this annexation on the basis of the loss of revenues to support Station #12 within the San Antonio Heights community. A letter from

the Fire Department, dated June 9, 2003, outlines these concerns (a complete copy of which is included in Attachment #4). LAFCO staff, through the Departmental Review Committee Meeting on June 17th, discussed these concerns with representatives of County Fire, the City Fire Department, and County Administrative Office. Thereafter, staff received a letter of concern from Chief William Stead of the Mt. Baldy Fire Department noting their desire to be assured of continuing support from CSA 38 and their concern regarding response times should responsibility transition to the City of Upland Fire Department (copy included as a part of Attachment #4).

During the property tax transfer process required for all annexations through the provisions of Section 99 of the Revenue and Taxation Code, it has been determined that CSA 38 will experience a loss of approximately \$100,339 and CSA 70 will experience a loss of \$22,287. No information has been provided by County Fire as to the actual cost for operation of Station #12, but the revenues generated from within the San Antonio Heights and Mt. Baldy Village communities have been estimated by the County Assessor and Auditor-Controller Offices at the request of LAFCO staff as follows:

TAX RATE AREAS	ASSESSED VALUATION FISCAL YEAR 2002-03	TOTAL PROPERTY TAX REVENUES	REVENUES FOR CSA 38	REVENUES FOR CSA 70
SAN ANTONIO HEIGHTS				
113003	\$106,656,547	\$1,066,565	\$130,049	\$28,886
113004	\$2,957,619	\$29,576	\$3,626	\$805
113023	\$5,231,056	\$52,311	\$6,314	\$1,402
113006	\$14,800,396	\$148,004	\$18,146	\$4,030
113010	\$300,856,965	\$3,008,570	\$363,123	\$80,655
113011	\$4,688,772	\$46,888	\$6,017	\$1,337
MT. BALDY VILLAGE				
59001	\$15,239,240	\$152,392	\$19,378	\$4,304
TOTAL	\$450,430,595	\$4,504,306	\$546,653	\$121,419

The staff has broached the question of a possible automatic aid, or other contractual relationship, between the City and County Fire to address this pressing service issue. The question of a contractual relationship was posed since in a number of other areas within the Valley portion of CSA 38, the same types of concerns have been expressed, and the response has been to negotiate

an automatic aid agreement with an adjoining municipality. For example, in the case of the detachment of the City of Highland from CSA 38, it removed the fire stations operated by County Fire, and a contractual relationship was negotiated with the City of San Bernardino to provide fire protection and paramedic services to the nine unincorporated areas within their central and eastern sphere of influence. The detachment of the City of Yucaipa from CSA 38 posed the same type of problem and the same type of contract was entered into between the County and the City of Yucaipa for the continuation of service to the Oak Glen community, including the provision of paramedic services. The Cities of Loma Linda and Colton have long-standing contracts to provide service to unincorporated areas within their spheres of influence that are a part of CSA 38 following California Division of Forestry station closures, etc.

The City of Upland Fire Chief took a request for authorization to proceed to negotiate with the County to the Upland City Council on July 28th. The City Council authorized the Fire Chief to proceed to negotiate with the County to resolve the concerns of the Mt. Baldy Fire Department and County Fire as to the long term effects of the annexation on the regional fire service providers. The City of Upland Fire Department has submitted a request for information to County Fire and Mt. Baldy Fire in order to begin the negotiation process. This information request was included in a letter, dated August 20, 2003, outlining 68 service-related questions. Copies of these materials are included as Attachment #5 to this report. As of Friday, October 3rd, the City of Upland Fire Department had received a response from Mt. Baldy, but had not received a response from County Fire.

While there is the need to address this issue, based upon the long-term service delivery implications, the Commission can not require that the City enter into an agreement to serve outside its sphere of influence boundaries. In addition, the Commission, through this action, can not compel the County, on behalf of CSA 38, to negotiate with the City for service provision. Through this action the Commission is obligated to look at the overall effect of this change to the existing service providers, which has been done. Staff is, therefore, recommending that the Commission include a finding in its resolution that the County and City should negotiate an agreement to address the continuing fire protection service issues for CSA 38 in this portion of the Valley-area.

ENVIRONMENTAL ISSUES:

The City of Upland has conducted the environmental assessment for the College Heights Pre-Zone No. PZC-02-02, which also addressed the environmental consequences of annexation. The assessment has been reviewed by the Commission's environmental consultant, Tom Dodson and

Associates. Mr. Dodson has determined that the City documents are adequate for Commission use, 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:

- a. Indicate that the Commission has reviewed and considered the environmental assessment and Negative Declaration certified by the City of Upland;
- b. Determine that these environmental documents are adequate for the Commission's use in making its decision related to the annexation;
- c. Determine that the Commission does not intend to adopt alternatives for this project, and that no mitigation measures are included in the City's environmental documents; and,
- d. Direct the Clerk to file a Notice of Determination within five days.

FINDINGS:

The following findings 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 inhabited, containing 29 registered voters as of June 4, 2003.
2. The County Assessor has determined that the total assessed value of land and improvements within the study area is \$82,290,628 (land value is \$30,846,535, and improvement value is \$51,444,093). The area is within the sphere of influence assigned the City of Upland.
3. 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.
4. LAFCO staff has also provided an individual notice to the landowners and registered voters within the annexation area, and to landowners and voters surrounding the study area in accordance with state law and adopted Commission policies. Opposition to this annexation has been

received from a commercial property owner within the area through e-mail. A copy of this correspondence is provided as Attachment #3.

5. The City of Upland has pre-zoned the study area for Highway Commercial (CH), Special Purpose (SP), and Light Industrial (ML) uses. These zoning designations conform to the adopted General Plan for the City of Upland, are 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.
6. As a function of pre-zoning, the City of Upland acted as the lead agency for environmental review. The Commission's environmental consultant, Tom Dodson and Associates, has reviewed the City of Upland's Initial Study and Negative Declaration and determined that they are adequate for the Commission's review of the proposed annexation as a responsible agency. A copy of the City's environmental assessment and Mr. Dodson's response are attached for the Commission's review. The necessary actions to be taken by the Commission, as a responsible agency under CEQA, are listed in the narrative section of this report.
7. The area in question is presently served by the following local agencies:
 - County of San Bernardino
 - Monte Vista Water District
 - 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 (portion of the area)
 - 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. None of the other agencies are affected by this proposal.

8. The City of Upland has submitted a plan for the extension of municipal services to the study area, and certified as to the adequacy of the plan, as required by law. 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.

9. 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.
10. 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 receipt of City water service and many have benefited from the receipt of City sewer service.
11. 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. Existing development includes some residential uses estimated at slightly less than 6% of the total land area.
12. Concern has been expressed by the County Consolidated Fire Agency, administrators of County Service Area 38 and County Service Area 70, regarding the loss of revenue due to the detachment of this territory. It is recommended by the Commission that the City and County work to negotiate an automatic aid agreement to address the provision of fire and paramedic service through the City of Upland for the areas currently served by Station #12, located at 24th Street and Euclid Avenue. These communities are identified as San Antonio Heights (currently within the City of Upland sphere of influence) and Mt. Baldy Village, an area along the Los Angeles/San Bernardino County line approximately 5 miles north of San Antonio Heights.
13. 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.
14. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

CONCLUSION:

Pursuant to the provisions of Government Code Section 56375(a), it is the staff's position that the Commission is required to approve the proposal for annexation of the College Heights area to the City of Upland. However, even without that requirement, the policy standards developed by the Commission would still point toward the approval of this proposal. These policies are:

- Urban level development should be included within a municipal service provider;
- The developed areas of the annexation site require the reliance upon facilities which have been developed by the City; therefore, this area should be included within the boundaries of the City to assure fair share financing; and
- The area has been a part of the sphere of influence of the City since 1972.

Based upon all of these elements of review, the staff is recommending that the Commission approve the proposal by taking the actions listed under the recommendation section.

Attachments:

1. Maps of Annexation Area
2. City Application and Plan for Services
3. E-mail Protest from Keith Walton, Land Care Inc.
4. Letters of Opposition received from County Consolidated Fire Agency and the Mt. Baldy Volunteer Fire Department
5. City of Upland Fire Department Correspondence Related to San Antonio Heights and Mt. Baldy Fire Service
6. Response from Tom Dodson and Associates and City Environmental Documents
7. Draft Resolution #2786