

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

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DATE: September 6, 2002

FROM: KATHLEEN ROLLINGS-McDONALD, Deputy Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #5: LAFCO SC#185 -- City of Montclair Irrevocable Agreement to Annex No. 02-72-I-47 for Sewer Service (Tract 16215 – Young Homes)

SUBMITTED BY: City of Montclair

RECOMMENDATION:

- 1) For environmental review, take the following actions:
 - a. Certify the Commission has reviewed and considered the environmental assessment and Negative Declaration prepared by the County of San Bernardino for the General Plan Amendment and Tentative Tract 16215 for the 41-lot development on 12.72 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#185 authorizing the City of Montclair to extend sewer service outside its boundaries to Tentative Tract No. 16215, a 41 residential lot subdivision, proposed for Assessor Parcel Number 1011-341-24;
- 3) Adopt LAFCO Resolution #2748 setting forth the Commission's findings, determinations and approval of the agreement for service outside the City of Montclair's boundaries.

BACKGROUND:

The City of Montclair has submitted an application for authorization to provide sewer service outside its corporate boundaries as permitted by Government Code Section 56133. The City has submitted this proposal in response to an application for sewer service by the developer of Tentative Tract 16215, Montclair 16215 LLC (Young Homes of California). The project is planned for development of 41 single-family residences on 12.27 acres. The project area is generally located west of Vernon Avenue, south of Mission Blvd., in the southeastern City of Montclair sphere of influence. Attachment 1 to this report provides a vicinity map showing the general location, a map showing infrastructure location, and a map delineating the tract configuration. At the present time, the single parcel to be served is identified as Assessor Parcel Number 1011341-24.

The County of San Bernardino Land Use Services Department has processed the following approvals for the contract area: (1) a General Plan Amendment from RS-20M to CG (general commercial) on 0.45 acres and RS-20M to RS (single family residential) on 12.27 acres; and (2) Tentative Tract 16215 which proposes 41 residential lots with a variance for wall height and encroachment into building setbacks. The Conditions of Approval placed upon this project include the requirement for connection to the City of Montclair sewer system. The City's sewer lines are located to the south of the proposed tract development within Howard Street (shown on Attachment 1). The proposed contract would require the developers of the project to extend the sewer main northerly within Vernon Avenue from its intersection with Howard Street (approximately 700 feet), then westerly into the tract (streets are identified as Applegate Street, Gala Lane, and Gala Court).

In keeping with the City's process for review of service contracts, the developer of this project, Montclair 16215 LLC, met with City staff to resolve land use concerns and to negotiate the agreement to receive sewer service. The land use concern related to the original tract configuration (51 lots) and the Montclair General Plan designation that assigned the area a "Very Low Density" designation that allows up to 2 units per acre. The land use concern was resolved through a reduction in the number of lots allowed (reduction of 10 lots) and the terms of the irrevocable agreement to annex.

The extension of service through the proposed agreement includes the payment of fees for hook-up to the City's sewer system to pay for the original line construction (approximately \$153,300) as well as other fees and charges applicable to the City. The application indicates that the developer will be required to extend the necessary infrastructure at his expense and that the future residents of this tract will pay standard rates to the City for their sewer service.

Authorization for this extension of service by the Commission is required before the City of Montclair can take the final actions to implement the agreement. As indicated, the provisions of the agreement will apply to the developer and all future property owners of the proposed 41 lots. In order for this development project to proceed to record the final tract map, etc., the developers must show proof of their ability to connect to the City of Montclair's sewer infrastructure (County Conditions of Approval, Item #13, #48, and #80), which will be the recorded agreement with the City Council.

The staff has reviewed this application against the criteria established by Commission policy and Government Code Section 56133. The area is within the sphere of influence assigned the City of Montclair, and is anticipated to become a part of that City sometime in the future. The City and Developer have entered into an Irrevocable Agreement to Annex that specifies the requirements of both parties regarding a future annexation and the extension of service. The area has been zoned for residential uses by both the City of Montclair General Plan and the County's General Plan.

On this basis, the staff supports the City's request to provide sewer service by contract to the proposed residential development since its facilities are located near the anticipated development, there is no other existing entity available to provide the level of service required by the tentative tract within the area, and the site is within the moratorium area as declared by the Regional Water Quality Control Board for septic systems.

FINDINGS:

1. The Tentative Tract and General Plan Amendment provide for a 41-lot subdivision. The County's review of the General Plan Amendment was approved on April 9, 2002 with an effective date of May 9, 2002. The tentative tract approval included within the final "Conditions of Approval" the requirement that the project receive sewer service from the City of Montclair.

The Agreement for extension of service and annexation between the Developer and the City of Montclair was signed by the Developer on August 12, 2002, approved by the City Council on August 5, 2002, and signed by the Mayor on the same date.

2. The service contract being considered is for the provision of sewer service to a 41-lot, single-family residential tract from the City of Montclair to fulfill the Conditions of Approval imposed by the County. This contract will remain in force for the future property owners of these anticipated parcels in perpetuity, or until such time as the area is annexed. The approval of this application will allow the property owner and City of Montclair to proceed to finalize the contract for the extension of sewer service.

3. In April of 2002, acting as the CEQA lead agency, the County prepared an environmental assessment for the Tentative Tract and the General Plan Amendment for the overall development and adopted a Negative Declaration. The City of Montclair, as a CEQA responsible agency, reviewed these environmental documents when considering its Irrevocable Agreement to Annex and adopted the Negative Declaration on June 17, 2002. All of these indicate that the project would not have a significant effect upon the environment through its development under the Conditions of Approval imposed by the County of San Bernardino.

LAFCO Environmental Consultant, Tom Dodson and Associates, has provided a review of the County's initial study and Negative Declaration issued for this Tentative Tract and General Plan Amendment. 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 self-mitigating through 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. Maps: Vicinity map, locational map with infrastructure location and tentative tract map
2. City application and Irrevocable Agreement to Annex
3. County Conditions of Approval for Tentative Tract/General Plan Amendment
4. Tom Dodson and Associates response and County's environmental analysis of tentative tract and general plan amendment
5. Draft Resolution #2748