

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

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DATE: JUNE 10, 2008

FROM: SAMUEL MARTINEZ, Senior LAFCO Analyst

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #4: LAFCO's 3095 and 3096 (see proposal titles below)

PROPOSAL TITLES:

LAFCO 3095 – Sphere of Influence Amendment for City of Highland (Expansion) and City of San Bernardino (Reduction)

LAFCO 3096 – Reorganization to Include Annexations to City of Highland and Consolidated Landscape and Lighting District No. 96-1, and Detachment from City of San Bernardino (Chong)

INITIATED BY:

Resolution of the City Councils of the City of Highland and the City of San Bernardino

RECOMMENDATION:

The staff recommends that the Commission approve LAFCO 3095 and 3096 by taking the following actions:

1. With respect to environmental review:
 - a) Certify that the City of Highland's Mitigated Negative Declaration for the David Chong Highland sphere amendment, annexation and Tentative Tract Map 16636 (SCH No. 2007011140) has been independently reviewed and considered by the Commission, its staff, and its Environmental Consultant;

- b) Determine that the City's environmental assessment and Mitigated Negative Declaration are adequate for the Commission's use as CEQA Responsible Agency for its consideration of LAFCO 3095 and 3096;
 - c) Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; that the mitigation measures identified in the City's environmental document is the responsibility of the City and/or others, not the Commission; and,
 - d) Direct the Clerk to file a Notice of Determination within five (5) 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 3095 – Sphere of Influence Amendments for City of Highland (Expansion) and City of San Bernardino (Reduction);
 3. Adopt LAFCO Resolution #3006 for the sphere of influence expansion/reduction, setting forth the Commission's findings and determinations on this issue;
 4. Approve LAFCO 3096 – Reorganization to Include Annexations to City of Highland and Consolidated Landscape and Lighting District No. 96-1, and Detachments from City of San Bernardino, with the standard terms and conditions;
 5. Waive protest proceedings, as permitted by Government Code Section 56663(c), with 100% landowner consent to the reorganization; and,
 6. Adopt LAFCO Resolution #3007 for the reorganization, setting forth the Commission's findings, determinations, and conditions of approval concerning the reorganization proposal.

BACKGROUND:

LAFCOs 3095 and 3096 are proposals submitted by the City of Highland, together with consent from the City of San Bernardino, which would adjust the boundaries between both cities around a single parcel. The parcel, Assessor Parcel Number (APN) 1191-341-15, is currently within the City of San Bernardino and is adjacent to the City of Highland along its southern boundary.

The parcel is proposed to be developed into a 5-lot residential subdivision. However, due to the topography and location of the parcel, access to the property is only available through the City of Highland. Therefore, the proposed project, which would require municipal-type services, can be served more efficiently and effectively by the City of Highland.

LAFCO 3095 is a sphere amendment proposal that removes the 3.62-acre parcel from the City of San Bernardino's sphere and places it into the City of Highland's sphere, which is a requirement for annexation. LAFCO 3096 is a reorganization that will detach the parcel from the City of San Bernardino and annex it to the City of Highland and its Consolidated Landscape and Lighting District No. 96-1. The two proposals are being discussed concurrently within this report since the area being considered for both proposals are identical. Therefore, the "factors of consideration" for the sphere of influence expansion/reduction and the required reorganization findings are included within this single report.

BOUNDARIES:

The subject parcel, APN 1191-341-15, comprises 3.62+/- acres and is generally bordered by parcel lines on the west, north, east and south. The parcel is located at the northern terminus of Applewood Street with a current assigned street address of 28798 Live Oak Road. Location and vicinity maps of the sphere expansion/reduction and reorganization area are included as Attachment #1 to this report.

As mentioned above, the parcel can only be accessed through Applewood Street, located within the City of Highland. Logically, upon development of the proposed Tentative Tract and the connection of its road network to Applewood Street, services such street lighting, road maintenance (i.e. street sweeping), and trash removal will simply be extended from the services already available along Applewood Street, which is provided by the City of Highland. In addition, emergency services such as law enforcement and fire protection will naturally respond through Applewood Street.

Therefore, it is LAFCO staff's position that the boundary exchange between the Cities of San Bernardino and Highland is reasonable since the parcel can be served more efficiently and effectively by the City of Highland. In addition, the boundary exchange is also an easily identifiable boundary for service delivery since the proposed Tentative Tract will simply connect to the terminus of Applewood Street.

ENVIRONMENTAL CONSIDERATIONS:

The City of Highland prepared an Initial Study and Mitigated Negative Declaration for its review of the David Chong Highland sphere amendment, annexation and Tentative Tract Map 16636 to create five (5) single-family residences on 3.62+/- acres. The City's environmental assessment has been reviewed by the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, and has determined that the City's documents are adequate for Commission use. Mr. Dodson outlines his recommendations in a letter that is included as part of Attachment #4 to this 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:

- Certify that the City’s Mitigated Negative Declaration for the David Chong Highland sphere amendment, annexation and Tentative Tract Map 16636 (SCH No. 2007011140) has been independently reviewed and considered by the Commission, its staff, and its Environmental Consultant;
- Determine that the City’s environmental assessment and Mitigated Negative Declaration are adequate for the Commission’s use, as a CEQA responsible agency, for its consideration of LAFCO 3095 and 3096;
- Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; that the mitigation measures identified in the City’s environmental documents are the responsibility of the City and/or others, not the Commission;
- Direct the Clerk to file a Notice of Determination within five (5) 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.

SPHERE OF INFLUENCE EXPANSION/REDUCTION (LAFCO 3095)

The staff responses to the “factors of consideration” for the sphere of influence amendments (as required by Government Code Section 56425) are identified below:

Factors of Consideration:

The present and planned land uses in the area

The parcel is currently vacant. The City of San Bernardino’s existing General Plan Zoning designation for the parcel is RL (Residential Low), which is intended for development of low-density, large lot, single-family detached residential units with 10,800 sq. feet minimum lot size. The City of Highland assigned the parcel a General Plan land use designation of Low Density Residential (LDR) and has pre-zoned the parcel to Single-Family (R-1, 20,000) District, which allows for development of single-family residences with 20,000 sq. foot minimum parcel size.

The lots within the proposed Tentative Tract Map 16636 range from between 24,000 to 42,700 sq. feet. These lots are consistent with the City of San Bernardino’s existing land use for the area, the City of Highland’s assigned General Plan designation for the area, as well as the existing land uses surrounding the area.

The present and probable need for public facilities and services in the area

Currently, the service needs within the area are minimal due to its vacant nature. However, the project, which is a proposal to build five (5) single-family residences on the property, will require municipal-type services in order to develop. The area is already within the East Valley Water District (EVWD) which will extend water and sewer service to the parcel, as required by the proposed development. In addition, the proposed project will require other services such as police protection, fire protection/paramedic, streetlighting, road maintenance and other municipal-type services.

As mentioned previously, access to the site is only available through the City of Highland. Therefore, the most effective and efficient provider of the necessary services would be the City of Highland. This sphere expansion/reduction proposal is being submitted in order to facilitate the subsequent detachment of the area from the City of San Bernardino and annexation into the City of Highland and the Consolidated Landscape and Lighting District No. 96-1, who will then provide the necessary municipal-type services to allow for the development of the proposed Tentative Tract.

The present capacity of public facilities and adequacy of public services that the agency provides

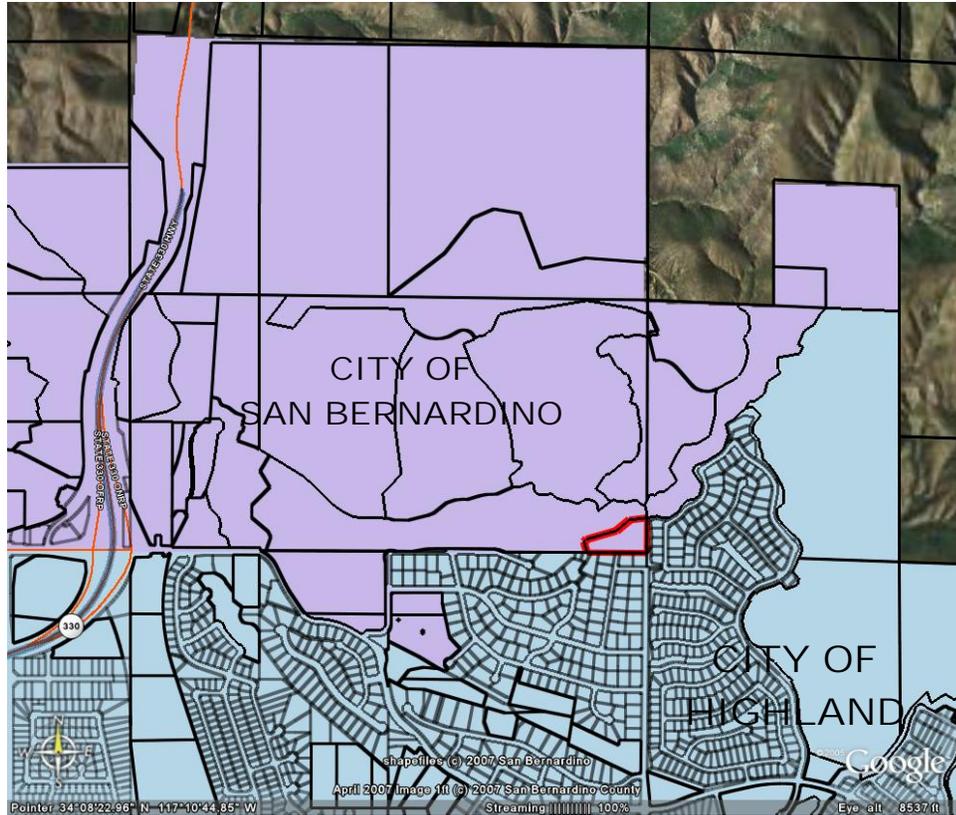
Again, this sphere expansion/reduction is being submitted as a companion proposal to LAFCO 3096, which is a reorganization to detach the parcel from the City of San Bernardino and subsequently annexed into the City of Highland and the Consolidated Landscape and Lighting District No. 96-1. The City of Highland provides a full range of municipal services and has submitted a Plan for Service that identifies how the proposed Tentative Tract will be served. As identified in the environmental assessment for the proposed Tentative Tract, the East Valley Water District can provide the full range of its water and sewer services to meet the needs of the proposed development.

The existence of any social or economic communities of interest

As a single parcel it is difficult to assess a social or economic community of interest. The parcel has been a part of the City of San Bernardino since it was annexed in 1979 as a part of the Highland Hills Annexation (LAFCO 1865). The southern boundary line of the parcel has been the common boundary line between the Cities of San Bernardino and Highland since the City of Highland's incorporation in 1987.

When State Route 330 was built to freeway standards, accessibility to the area east of the freeway has been limited to Highland Avenue, which is within the City of Highland. Since access to this site is only available through the City of Highland, it would appear that its community of interest

upon development of the parcel would be associated with the City of Highland. Therefore, approval of this action will bring the parcel into the City of Highland's sphere and ultimately into the City of Highland.



This proposal is the first that relates to a territory shift between the Cities of San Bernardino and Highland east of State Route 330. In the future, any development proposal east of the highway will have the same type of service delivery issues that will have to be addressed prior to development.

REORGANIZATION PROPOSAL (LAFCO 3096)

The companion application to the sphere of influence expansion/reduction is the reorganization proposal, identified as LAFCO 3096. The following discussion provides the information required to evaluate the change in jurisdiction:

Land Use:

Existing Land Uses:

The reorganization area is currently vacant. Surrounding land uses include: vacant land to the west, vacant land to the north, residential development to the east and south (within the City of Highland).

City of San Bernardino's Existing General Plan Zoning Designation:

The City of San Bernardino's current zoning designation for the parcel is RL (Residential Low), which allows a maximum density of 3.1 units per acre.

City of Highland's General Plan Designation:

The City of Highland, through the General Plan Amendment (GPA-006-002) process for the proposed project, assigned the parcel a General Plan land use designation of Low Density Residential (LDR).

City of Highland's Pre- Zone Designation:

The City of Highland's pre-zone designation for the area is Single-Family (R-1, 20,000) District, which allows for development of single-family residences with 20,000 sq. foot minimum parcel size.

Both the City of Highland and the City of San Bernardino's General Plan land use and zoning designation are generally compatible with each other, with the City of Highland requiring a less intense use due to the topography of the area. The City of Highland's Pre-zone designation and its General Plan land use for the area are consistent with each other and are consistent with the surrounding land uses within both cities.

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 findings, at a public hearing, that a substantial change has occurred in circumstance that necessitates a departure from the pre-zoning outlined in the application made to the Commission.

Service Issues and Effects on Other Local Governments:

In every consideration for jurisdictional change, the Commission is required to look at the existing and proposed service providers within an area. Currently, the City of San Bernardino is the service provider within the reorganization area. In addition, the East Valley Water District (domestic water and sewer collection services), the San Bernardino Valley Municipal Water District (the regional State Water Project provider), and the Inland Empire Resource Conservation District, overlay the reorganization area as well.

The City of Highland has submitted a Plan for Service as required by law and Commission policy. The City's plan is included as part of Attachment #2 to this report. The City's application also includes a Fiscal Impact Analysis which identifies the anticipated revenues and costs for the project and indicates that the recurring revenues will generally cover the operating and maintenance costs after

build-out. In addition, supplemental information was submitted that provides an analysis of hypothetical scenarios based on the housing down-turn, which shows that the project will still have a positive return in revenue even with a possible decline in the housing market.

The plan for service, in general, identifies the following:

- Sewage collection services will be available through East Valley Water District. Upon annexation, sewer service will be extended to the proposed Tentative Tract through construction of a new 8-inch sewer main in Applewood Street from the existing 8-inch sewer main located at the intersection of Applewood Street and Orange Blossom Drive.
- Water service will also be available through East Valley Water District. Upon annexation, water service will be extended to the proposed Tentative Tract through connection to the existing 12-inch water main currently located at the terminus of Applewood Street.
- Fire protection is currently being provided by the City of San Bernardino's Fire Department. This proposal would replace that service with City of Highland Fire Department which contracts with the California Department of Forestry and Fire Services (CDF), to provide fire protection and paramedic services. Upon annexation and upon development of the residential units within the reorganization area, each lot will be subject to the City of Highland special paramedic tax currently set at \$19.00 per household per year.
- Law enforcement responsibilities will shift from the City of San Bernardino Police Department to the City of Highland following the reorganization. The City contracts for its law enforcement services with the County Sheriff's Department.
- The reorganization area, through its annexation to the Consolidated Landscape and Lighting District No. 96-1, will have an additional tax assessment that funds the operation and maintenance of street lighting, landscaping, parks and trails. The lots within the reorganization area will be charged an annual assessment of \$23.75.

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

Waiver of Protest Proceedings:

The Registrar of Voters has certified that the reorganization area is legally uninhabited and the County Assessor's Office has verified that the reorganization

area possesses 100% landowner consent to the annexation. Therefore, if the Commission approves LAFCO 3096 and none of the affected agencies have submitted written opposition to a waiver of protest proceedings, staff is recommending that further protest proceedings be waived and that the Executive Officer be directed to complete the action following completion of the mandatory reconsideration period of 30-days.

Reorganization Findings:

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

1. The Registrar of Voters Office has certified that the reorganization area is legally uninhabited, containing no registered voter as of May 23, 2008.
2. Through approval of the companion proposal, LAFCO 3095, the reorganization area will be within the sphere of influence assigned for the City of Highland.
3. The County Assessor has determined that the total assessed value of land within the reorganization area is \$425,014; and certifies that the reorganization proposal possesses 100% landowner consent.
4. Commission review of this proposal has been advertised in *The Sun* and *The Highland Community News*, newspapers 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 notices to landowners and registered voters surrounding the reorganization area (totaling 223 notices) in accordance with state law and adopted Commission policies. To date, no written comments in support or opposition have been received regarding the consideration of this proposal.
6. The City of Highland has pre-zoned the reorganization area to Single-Family (R-1, 20,000) District. This zoning designation is consistent with the City's General Plan designation for the area. Pursuant to the provisions of Government Code Section 56375(e), this zoning designation shall remain in effect for two years following annexation unless specific actions are taken by the City Council.
7. As a function of its review for LAF #006-003 (annexation), General Plan Amendment GPA#006-002, pre-zoning ZCO #006-002, and Tentative Tract Map 16636 (TTM #006-003), the City of Highland acted as the lead agency for the environmental assessment for the reorganization proposal.

The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed the City of Highland's Initial Study and Negative Declaration that was prepared for the pre-zoning of the reorganization area. Mr. Dodson has determined that the City's Initial Study and Negative Declaration are adequate for the Commission's review of the reorganization proposal as a responsible agency. The necessary actions to be taken by the Commission, as a responsible agency, are outlined in the Environmental Considerations portion of this report. The City's environmental assessment is included as part of Attachment #4 to this report.

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

City San Bernardino
East Valley Water District
Inland Empire Resource Conservation District
San Bernardino Valley Municipal Water District

The proposal is an exchange between the Cities of San Bernardino and Highland - the only agencies affected by this reorganization. None of the other agencies will be affected by this proposal since they are regional in nature.

9. The City of Highland has submitted a plan for services as required by law. The plan, included as part of Attachment #2 to this report, outline that the City can maintain and/or improve the level and range of services currently available in the reorganization area.

Upon annexation, the City, and all other affected agencies will extend their services as required by the development. The Fiscal Impact Analysis (by Stanley R. Hoffman Associates), which was prepared for the project proposal, identifies the anticipated revenues and costs for the project and indicates that the recurring revenues will generally cover the operating and maintenance costs after build-out.

10. The reorganization area can benefit from the availability and extension of municipal services from the City of Highland.
11. This proposal will assist in the City's ability to achieve its fair share of the regional housing needs since the reorganization area is proposed for development of five (5) single-family residences.
12. With respect to environmental justice, the parcel exchange will not result in the unfair treatment of any person based on race, culture or income.
13. The Cities of San Bernardino and Highland 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.

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:

As outlined within the narrative portions of this report, staff supports the sphere of influence amendments between the Cities of San Bernardino and Highland, the reorganization proposal that include annexations to the City of Highland and the Consolidated Landscape and Lighting District No. 96-1, and detachment from the City of San Bernardino, which involves a single parcel, APN 1191-341-15:

- Through the sphere of influence expansion/reduction, the parcel will be a part of the City of Highland's sphere, a requirement for annexation;
- Through approval of reorganization, the City of Highland and all other affected agencies will extend services as required for the proposed development on the parcel in the most efficient and effective manner; and
- Then TTM 16636, a proposal to build five (5) single-family residences on the 3.62-acre parcel, can be developed.

For these reasons and those outlined in the staff report, staff recommends approval of LAFCOs 3095 and 3096.

KRM/sm

Attachments:

1. Vicinity Maps for the Sphere of Influence Amendments/Reorganization
2. City of Highland Application (Sphere Amendments and Reorganization), Plan for Service, and Fiscal Impact Analysis
3. Landowner Consent Forms
4. Response from Tom Dodson and Associates Including the City of Highland's Environmental Documents
5. Draft Resolution No. 3006 (Sphere of Influence Expansion/Reduction)
6. Draft Resolution No. 3007 (Reorganization)