

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

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DATE: OCTOBER 3, 2008

FROM: SAMUEL MARTINEZ, Senior LAFCO Analyst

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #5: LAFCO SC#338 – City of Fontana Irrevocable Agreement to Annex No. 08-01 for Sewer Service (APN 0235-011-14)

INITIATED BY:

City of Fontana, on behalf of the property owner

RECOMMENDATION:

Staff is recommending that the Commission:

1. Take the following actions as a responsible agency for environmental review:
 - Certify that the Commission has reviewed and considered the environmental assessment and the Mitigated Negative Declaration prepared by the County of San Bernardino for a Conditional Use Permit to construct a triplex on 1.3 acres, and found them to be adequate for Commission use;
 - Determine that the Commission does not intend to adopt alternatives or mitigation measures for this project; that all mitigation measures are the responsibility of the County and/or others, not the Commission; and,
 - Note that this proposal is exempt from Department of Fish and Game fees because the filing fee was the responsibility of the County, as CEQA lead agency, and direct the Clerk to file a Notice of Determination within five (5) days of this action.

2. Approve SC#338 authorizing the City of Fontana to extend sewer service outside its boundaries to Assessor Parcel Number (APN) 0235-011-14.
3. Adopt LAFCO Resolution #3031 setting forth the Commission's findings, determinations and approval of the agreement for service outside the City of Fontana's boundaries.

BACKGROUND:

The City of Fontana (hereinafter the "City") has submitted an application for Commission review and authorization of an out-of-agency agreement that outlines the terms by which the City will extend sewer service outside its boundaries. The agreement relates to a single parcel, APN 0235-011-14, generally located on the south side of San Bernardino Avenue (15053 San Bernardino Avenue) between Robinia Street and Hemlock Avenue, within the City's central sphere of influence. Attachment #1 provides a location and vicinity map of the site along with a map outlining the location of the infrastructure to be extended.

Currently, there are two (2) single-family residential units on the parcel. Both existing residences are served by on-site septic systems. In 2006, the County Land Use Services Department processed and approved a Conditional Use Permit (CUP) to construct a triplex on the 1.3-acre parcel. A copy of the Conditions of Approval for the project is included as Attachment #3 to this report.

The Conditions of Approval identifies the option of either being served by an on-site septic system or connection to sewer for sewage disposal. At the time that the CUP was approved, the City could not serve the parcel since its sewer lines were not available in the area. However, in 2007, the City installed a sewer line in San Bernardino Avenue, which became available for connection in December 2007. Because of the change in circumstance, the County re-issued a memorandum to the applicant requiring the connection to the City's sewer facilities. Water service to the triplex will be provided by the Fontana Water Company (a private water company regulated by the PUC), which currently serves the two existing residences. As identified earlier, both existing residential units are currently on septic systems and no change in service is currently contemplated. However, future connection will not require additional review by the Commission.

Therefore, the City, on behalf of the property owner, has requested that the Commission authorize the extension of sewer service to the proposed triplex pursuant to the provisions of Government Code Section 56133. Authorization of this agreement is required before the City can take the final actions to implement the terms of the agreement.

PLAN FOR SERVICE:

The City’s application indicates that the project site will be served from an existing 8-inch sewer main in San Bernardino Avenue. The property owner will be responsible for connecting the lateral extension from the existing sewer main to the development proposed on the parcel.

Pursuant to the Commission’s application requirements for service contracts, information has been provided regarding all financial obligations for the extension of service outside the agency’s boundaries. The City has submitted an estimated cost of \$16,723.83 in sewer fees for the extension of service to the parcel. The following table outlines the details for calculation of the fees:

Sewer Connection Charge	\$876.61 x 3 units	\$2,629.83
Sewer Permit	\$25 x 3 units	\$75.00
Facilities Expansion Fee (pass thru fee to IEUA)	\$4,673 x 3 units	\$14,019.00
TOTAL		\$16,723.83

In addition, the property owner will be responsible for the entire cost of the construction and installation of the lateral extension to the sewer main. The City has also indicated that future occupants of the triplex will be charged approximately 50 percent more than the in-City rate for sewer service. The higher rates charged are intended to help offset the costs for service delivery outside the City’s corporate boundaries.

ENVIRONMENTAL DETERMINATION:

LAFCO’s Environmental Consultant, Tom Dodson and Associates reviewed the County’s environmental assessment issued for the proposed project. Mr. Dodson’s analysis indicates that the County’s Initial Study and Mitigated Negative Declaration are adequate for the Commission’s use as a CEQA responsible agency.

CONCLUSION:

Staff has reviewed this request for the provision of sewer service by the City outside its corporate boundaries against the criteria established by Commission policy and Government Code Section 56133. The parcel to be served is within the sphere of influence assigned the City and is anticipated to become a part of the City sometime in the future. The development of the proposed triplex requires that it receive sewer service, which is only available from the City. Staff supports the City’s request for authorization to provide sewer service to the proposed project since its facilities are adjacent to the

proposed development, and there is no other existing entity available to provide this service within the area.

FINDINGS:

1. The project area, identified as APN 0235-011-14, is generally located on the south side of San Bernardino Avenue (15053 San Bernardino Avenue) between Robinia Street and Hemlock Avenue. The parcel is within the sphere of influence assigned the City of Fontana and is anticipated to become a part of that City sometime in the future. The two (2) existing residences on the parcel already receive water service from Fontana Water Company (FWC) and the proposed project, a triplex being developed on the parcel, will also receive its water service from FWC.

The application requests authorization to receive City of Fontana sewer service for the proposed triplex being developed on the parcel. This requirement is a condition of approval placed upon the project by the County Land Use Services Department. Therefore, approval of the City's request for authorization to provide sewer service is necessary in order to satisfy this condition of approval.

2. Irrevocable Agreement to Annex No. 08-01 is being considered for the provision of sewer service by the City of Fontana to APN 0235-011-14. This contract will remain in force in perpetuity for the parcel or until such time as the area is annexed. Approval of this application will allow the property owner and the City of Fontana to proceed in finalizing the contract for the extension of this service.

The City's sewer service connection is for the proposed triplex only since the two (2) other existing single-family residences within the parcel are currently on septic systems and have been approved to continue to be on septic systems. At such time in the future when any of the two (or both) existing residences require connection to sewer due to a septic system failure, the property owner will be required to get subsequent sewer service approval from the City. However, no further LAFCO review and authorization will be required for the City's extension of sewer service to any of the two existing residences since LAFCO's authorization for sewer service is for the parcel.

3. The fees charged this project by the City of Fontana for sewer service are identified as totaling \$16,723.83 (for a breakdown of fees, see table on page 3). Payment of these fees is required prior to connection to the City's sewer facilities. In addition, the property owner shall bear all costs to complete improvements needed to extend the sewer service to the parcel.

4. In August 2006, acting as the CEQA lead agency, the County prepared an environmental assessment for a Conditional Use Permit to construct a triplex on 1.3+/- acres. The assessment indicates that the project would not have a significant effect on the environment through its development under the Conditions of Approval that has been prepared for the proposed project.

LAFCO's Environmental Consultant, Tom Dodson and Associates, has reviewed the County's environmental assessment issued for the proposed project and has indicated that the County's Initial Study and Mitigated 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/or others 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.

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Attachments:

1. Vicinity Map and Map of the Contract Area
2. City of Fontana's Application and Contract
3. County Conditions of Approval for Conditional Use Permit to Construct a Triplex on 1.3 Acres
4. Tom Dodson and Associates Response Including the County's Environmental Documents for the CUP
5. Draft Resolution #3031