

# LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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**DATE:** APRIL 12, 2010

**FROM:** KATHLEEN ROLLINGS-McDONALD, Executive Officer

**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT:** **Agenda Item #9:** Review of Extension of New Urban Services into a Previously Unserved Unincorporated Area – Hacienda at Fairview Valley Specific Plan (general eastern Apple Valley area)

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## **BACKGROUND**

The provisions of Government Code Section 56434 outline the Commission's authority to review development proposals "that would extend services into previously unserved territory within unincorporated areas..." An important aspect to this review is the understanding that the Commission does not have regulatory authority over whether such development or services extensions should occur, unless annexation or some sort of reorganization is required to extend services. The purpose of this provision of law is simply to provide an avenue for the Commission to provide input into the County's development process if it wishes to do so. The Commission's policy discussion in March 2001 indicated that it would review these types of actions on a case-by-case basis and decide whether or not to submit its comments to the County.

The staff is presenting information on the development project identified as "Hacienda at Fairview Valley" (hereafter shown as "Hacienda") which consists of a Specific Plan, General Plan Amendment and related actions to provide a master planned community on approximately 1,557 acres. The development anticipates 3,114 housing units along with supporting land uses of retail/commercial, parks, recreation, open space, and other related land uses. In conjunction with this process, the applicant is processing a Development Agreement to refine the understandings of the applicant and County in the future processing of the master planned development.

The project is currently within the sphere of influence of the Town of Apple Valley and within the sphere of influence and boundaries of the Apple Valley Fire Protection District. The staff presented a brief note on the project during the Service Review for the Apple Valley community. Hacienda at Fairview Valley is currently in the review process with the County's Land Use Services Department with hearings before the County Planning Commission and Board of Supervisors anticipated in the late spring and summer of 2010.

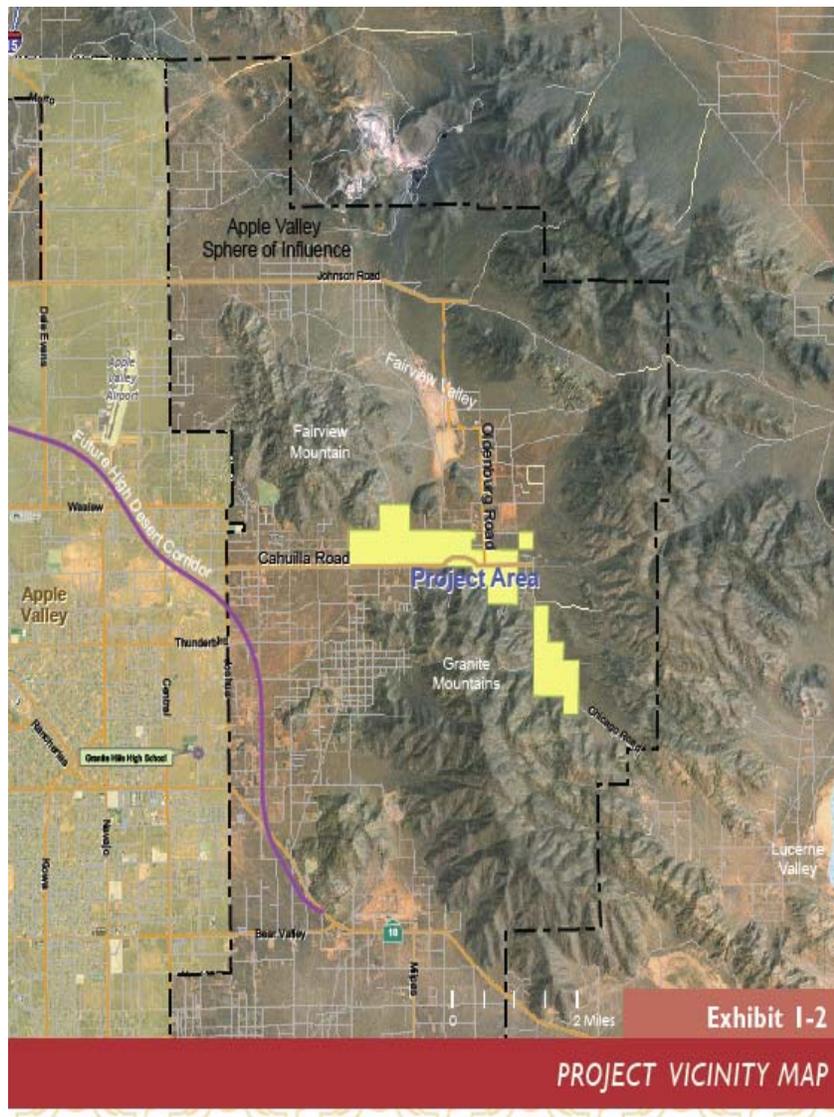
**LAFCO AREAS OF REVIEW:**

LAFCO's review as defined in Government Code Section 56434 indicates that the Commission should look to how a new service responsibility fits within the parameters defined by Government Code Section 56001, 56300, and 56301. These sections provide the Legislature's direction to the Commission in doing its business (56001), in its need to establish written policies and procedures on how it will handle such reviews (56300), and finally, Section 56301 states the following:

“Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities. When the formation of a new government entity is proposed, a commission shall make a determination as to whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose agency is deemed necessary, the commission shall consider reorganization with other single-purpose agencies that provide related services.”

In keeping with this direction, staff is providing the Commission with a look at the structure of governance to provide the services necessary to accommodate the development anticipated for the Hacienda project. It is not a review of whether or not the development should occur or at what level or intensity. Those land use considerations are outside the purview of the Commission as stated by law and currently being reviewed by the County of San Bernardino.

The project site is located approximately two miles east of the existing Town of Apple Valley boundary in an area of the Town's eastern sphere of influence. Fairview Valley is north and west of the Granite Mountains, approximately five miles north of State Route 18. The project contemplates the development of 1,557 acres with 3,114 units of housing on 1,126 acres located within four separate villages, 15 acres of commercial development, 336 acres of open space which includes parks, water feature and open space for conservation purposes, and 80 acres of roads. The villages are designed to have a mix of residential types ranging from rural living (large lots of 2 acres or greater) to active adult neighborhoods restricted to 55+ years of age (varying lots sizes ranging from 4,000 sq. ft. to 7,000 sq. ft.). An aerial vicinity map taken from the Specific Plan of the area is shown below:



The question to be asked in this LAFCO review for the project is, “Is it currently included within the boundaries of an agency capable of providing the range and level of services necessary for the development contemplated?” The answer is a qualified “yes”. As noted earlier in this report, the area is currently within the boundaries of the Apple Valley Fire Protection District. However, it is also within the boundaries of County Service Area 70 (hereafter CSA 70) which encompasses the entirety of the unincorporated county area. The range of services authorized for these agencies would be sufficient to accommodate the development. However, an improvement zone would need to be created for CSA 70 in order to provide for the creation of an assessment to fund the development of facilities (if requested) and the ongoing maintenance and operation of the services to be provided. This project will need a level and range of these services that would be defined as “municipal” by LAFCO standards.

The Specific Plan (hereinafter identified as “SP”) and Environmental Impact Report (hereinafter “EIR”) are included on a CD as attachments to this report while excerpts of the

documents are included for review. These documents outline the following information regarding service delivery for the project:

**Water Service** – The SP indicates that the Apple Valley Ranchos Water Company will be the water provider for the project and the EIR evaluates the extension of this service. As was outlined in the Service Review for the Apple Valley Community, water service is fractured in the sphere area with a number of providers present. The expansion of the Apple Valley Ranchos Water Company certificated service area to include the project, approved by the PUC, will provide for a more comprehensive approach to water and may provide the potential for possible intertie with other water agencies in the area, a service deficiency identified in the Service Review for the community of Apple Valley.

**Sewer Service** -- The SP and EIR indicate that for those portions of the plan developing at an intensity requiring wastewater collection and treatment, a package treatment plant will be developed for service. What is unclear in the documentation is the entity to be responsible for maintenance and operation of such a plant. The mitigation measures of the EIR identify that “the applicant shall submit detailed wastewater system plans to the County Service Area for approval.” However, no creation of such a CSA for this service for the area has been identified in the documents. However, the SP identifies the creation of the sewer collection systems through a package treatment system, which is anticipated to change to a permanent system “When the package treatment system reaches 80% capacity the permanent wastewater system will be designed and approved by the County.” Again, without identification of the entity for ongoing maintenance and operation.

As the Commission is aware in prior reviews of the transition of wastewater services to locally controlled entities, the funding through bonding or loans is difficult to transition when an improvement zone is utilized. The legislature also recognized this during its review of SB 135 rewriting Community Services District law. At present a CSD can be created for an area without voters, governed by the Board of Supervisors, with a mechanism to address a future transition to independent status if desired by the registered voters. LAFCO staff has provided this information to the developers of the project and conveyed this to the County’s Land Use Services Department and Special Districts Department.

At a minimum, we have identified that the mechanism for maintaining and operating this package wastewater treatment system should be addressed in the SP and EIR either as a specific choice, or the discussion of the options available, such as a Homeowners Association, an Improvement Zone to CSA 70, or the formation of a Community Services District.

### **Streetlighting**

The question of the provision of streetlights through recognition of the County’s Night Sky Ordinance is not addressed specifically in the SP or EIR, but is a matter for consideration due to recent actions by the County Board of Supervisors and the Town of Apple Valley. As the Commission will recall as a part of the Apple Valley

Community Service Review, the discussion of the services provided by CSA 17 (streetlights) was reviewed and the determination made that the agency should be dissolved and its services transferred to the Town of Apple Valley. As a part of implementing this direction, the Town of Apple Valley and the County have approved a contract for continuing service within the Town's sphere of influence which identifies that they will provide streetlighting services and the County will implement a financing mechanism for that service. This question, in LAFCO staff's opinion, needs to be addressed by the SP for this project.

### **Parks and Recreation**

A public park is contemplated in the SP for Village B, but there is no identification of the maintenance and operation of this facility. While not identified specifically, LAFCO staff understands that the trails system of the project will be owned and maintained by the Homeowners Association. In addition, LAFCO staff has raised the question of the provision of Parks since this area was a part of the now dissolved Apple Valley Recreation and Park District. The Town of Apple Valley was the successor to this district with the requirement that it continue to provide the service to residents outside the Town boundary as those provided to Town residents with no differential in cost.

### **Detention Basins and Open Space**

The SP and EIR do not specifically identify the maintenance and operation entities for these facilities, but does identify that those not dedicated to a public agency will be maintained by the project's Homeowners Association or Community Facility District (CFD). A CFD is a financing mechanism, not a service provider. Therefore, LAFCO staff believes that a more specific discussion of maintenance and operation is needed.

The options for these services and the potential for financing the infrastructure necessary has been identified as being through:

1. A Homeowners Association (HOA) and/or Sub HOAs,
2. A County Service Area (which LAFCO staff understands is an improvement zone to CSA 70),
3. The SP identifies a Community Facilities District, or
4. LAFCO staff would add to the discussion the formation of a board-governed Community Services District.

Of these, the Community Facilities District is not an option for providing the services; it is a financing mechanism only. The balance of the entities could provide the range of services needed, and the question is what the best alternative is for the long-term for the project. In LAFCO staff's opinion that choice would be a Community Services District.

**Fire Protection** – Apple Valley Fire Protection District serves the entirety of the project area and will be establishing the requirements for service, i.e., fire sprinklers, water pressure and capacity. The development of an on-site fire facility is identified as a mitigation measure upon reaching certain milestones in the development process.

**CONCLUSION:**

This item has been presented to the Commission for its information. No action is required by law to be taken; however, if the Commission wishes to forward comments to the County Land Use Service Department related to the items outlined in this report, staff will be happy to provide a written response for their consideration.

/krm

Attachments:

- 1 – [Excerpt from Specific Plan for Hacienda at Fairview Valley \(full plan provided on CD\)](#)
- 2 – [Excerpt from Executive Summary of Draft EIR for Hacienda at Fairview Valley \(full EIR provided on CD\)](#)
- 3 – [LAFCO Prepared General Outline of Community Services Districts](#)