

# LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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**DATE:** JANUARY 5, 2017   
**FROM:** KATHLEEN ROLLINGS-McDONALD, Executive Officer  
SAMUEL MARTINEZ, Assistant Executive Officer  
**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT:** Agenda Item #7: LAFCO 3213 – Reorganization to include Annexation to the City of Chino and Detachment from County Service Area 70 (Griffin Homes)

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**INITIATED BY:**

City of Chino Council Resolution

**RECOMMENDATION:**

The staff recommends that the Commission approve LAFCO 3213 by taking the following actions:

1. With respect to environmental review:
  - a) Certify that the Commission, its staff, and its Environmental Consultant have independently reviewed and considered the City's Initial Study and Negative Declaration for Pre-zoning (PL16-0051) for approximately seven acres;
  - b) Determine that the City's environmental assessment and Negative Declaration are adequate for the Commission's use as a CEQA Responsible Agency for its consideration of LAFCO 3213;
  - c) Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; and,
  - d) Direct the Executive Officer to file the Notice of Determination within five (5) days and find that no further Department of Fish and Wildlife filing fees are required by the Commission's approval of LAFCO 3213 since the City of Chino, as lead agency, has paid said fees.
2. Approve LAFCO 3213, with the standard LAFCO terms and conditions that include the "hold harmless" clause for potential litigation costs by the applicant.

3. Waive protest proceedings, as permitted by Government Code Section 56662(d), with 100% landowner consent to the annexation; and,
4. Adopt LAFCO Resolution #3239, setting forth the Commission’s determinations and conditions of approval concerning this proposal.

**BACKGROUND INFORMATION:**

LAFCO 3213 is a reorganization proposal initiated by the City of Chino that includes annexation to the City of Chino (hereafter the “City”) and detachment from County Service Area (CSA) 70. The proposed reorganization area includes Tract 18902, a 36-lot planned development, and a railroad right-of-way encompassing approximately seven acres generally located within the City of Chino’s northwestern sphere of influence.

As shown in Figure 1 below, the reorganization area is bounded by the northerly right-of-way of the Southern Pacific Railroad (existing City of Chino boundary) on the north, Pipeline Avenue on the east, and parcel lines on the south and west. Location and vicinity maps are also included as Attachment #1 to this report.



Fig. 1: LAFCO 3213 Vicinity Map

In November 2014, the County approved the development of Tract 18902, a planned development with 36 single-family residential lots that included—as part of the conditions of approval—the requirement to connect to the City of Chino’s water and sewer facilities in order to record the final tract map. In order to facilitate the timely development of the tract, the City permitted the connection to its water and sewer facilities through approval of an Irrevocable Agreement to Annex, which contemplates annexation of the tract sometime in the future. This out-of-agency service agreement was approved by the Commission in

November 2015 (LAFCO SC#400). However, when the City took its action to finalize the agreement, the City Council opted to condition the approval of the contract upon the immediate annexation of the tract into the City as permitted under its policy related to sewer service within its sphere of influence (Resolution No. 2006-028<sup>1</sup>) since the parcels associated with the tract are contiguous to the City's boundary. In addition to approving the agreement, the City also executed a Public Improvement Agreement pursuant to its Municipal Code that requires the payment of the City's development impact fees for the tract.

On June 21, 2016, the City—with concurrence from the property owner/developer—initiated the reorganization proposal, LAFCO 3213. This report will provide the Commission with the information related to the four major areas of consideration required for a jurisdictional change – boundaries, land uses, service issues and the effects on other local governments, and environmental considerations.

### **BOUNDARIES:**

The reorganization area is bounded by the northerly right-of-way of the Southern Pacific Railroad (existing City of Chino boundary) on the north, Pipeline Avenue on the east, and parcel lines on the south and west, within the City of Chino's unincorporated sphere of influence. The area proposed for inclusion into the City includes the entirety of Tract 18902, a proposed development that is only accessible from Pipeline Avenue. In addition, all service provision into said tract will be through Pipeline Avenue.

The City's determination to implement its current policy related to the extension of water and/or sewer service outside its boundaries (City Resolution No. 2006-028) requiring annexation for those parcels contiguous to City boundaries has the potential to start a pattern of zig-zag boundaries for the City. As with the City of Redlands who's Measure U requires the same actions, concerns have been expressed in the past related to road maintenance and development standards along the affected thoroughfares. LAFCO staff will work with the City on future annexation boundaries to eliminate the potential development of islands (prohibited by law) and peninsulas of unincorporated territory to reduce this impact whenever possible.

It is LAFCO staff's position that this reorganization proposal provides for a logical boundary since it includes the entirety of Tract 18902, a wholly contained community with 36 single-family residences that has access only from Pipeline Avenue, which is an easily identifiable boundary for service delivery.

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<sup>1</sup> Resolution No. 2006-028 states, "...any parcel(s) contiguous to the City boundary, requesting sewer service, may be required to annex to the City. At the time of the request, if annexation is determined by the City to not be feasible, an irrevocable agreement to annex to the City must be executed."

**LAND USE:**

*Existing Uses:*

The reorganization area is a mix of residential development and vacant lots (since the development of Tract 18902 is still underway) including a section of the Southern Pacific Railroad right-of-way. Existing uses directly surrounding the reorganization area include residential development and the railroad right-of-way to the east, residential development and an equestrian facility to the south, residential development to the west, and residential development (within the City) to the north. Figure 2 shows an aerial view of the site taken from a few months ago, prior to construction of the tract.

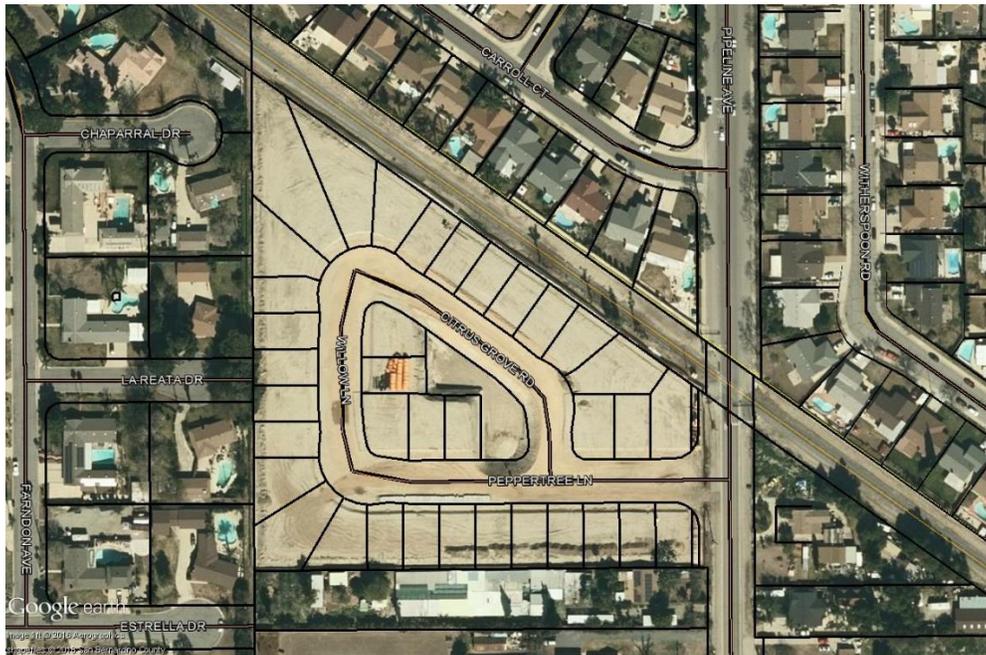


Fig. 2: Aerial of Reorganization Area

Figure 3 below is a picture of the development that is currently on site as of the date of this report, which includes the completion of the model homes, the playground, and Phase 1 of the tract. Phase 2 of the tract is nearing completion.



Fig. 3: View from Entrance of the Tract

*County's Land Use Designation:*

As part of the County's approval of Tract 18902, it approved a General Plan Amendment to change the land use designation of the subject area, which is now designated as SD (PRD-2014-01) Special Development (Planned Residential Development). The Special Development (PRD-2014-01) land use district approved for the site allows for single-family residential development with a density of 5.24 dwelling units per acre and includes alternative development standards such as reduced setbacks and specific design guidelines for the proposed dwelling units to be built on the site.

*City's General Plan:*

The City's General Plan designates the entire reorganization area RD8 (Residential, 4.5 to 8 dwelling units/acre). The land use determination between the City and County are generally compatible.

*City's Pre-Zone Designation:*

The City of Chino processed the pre-zoning of the area as part of its initiation of the reorganization proposal. The City's pre-zone designation for the reorganization area is zoned RD8. This pre-zone designation is consistent with the City's General Plan designation for the area and is also consistent with the proposed development being built on the site.

Under normal circumstances, staff would outline the provisions of Government Code Section 56375(e), requiring that the pre-zoning designation shall remain in effect for a period of two (2) years following annexation. Since the proposal is for the annexation of the tract, which is currently under construction, this determination is not required.

**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. County Service Area 70 (multi-function entity) is the only County service provider within the reorganization area. In addition, the following regional entities overlay the reorganization area: Chino Valley Independent Fire Protection District, West Valley Mosquito and Vector Control District, Inland Empire Resource Conservation District, Chino Basin Water Conservation District, Inland Empire Utilities Agency (wastewater treatment services), and the Metropolitan Water District of Southern California (the State Water Contractor).

The application includes a plan for the extension of services for the reorganization area as required by law and Commission policy (included as part of Attachment #3 to this report). The Plan for Service, which was prepared by the Zimmerman Group and was certified by the City, includes a Fiscal Impact Analysis indicating that the project will have a positive financial effect for the City. In general, the Plan identifies the following:

- Wastewater collection services is being provided by the City to Tract 18902 through an out-of-agency service agreement between the property owner/developer and the City (LAFCO SC#400). The sewer line built within the tract connects to the existing 18-inch sewer main in Pipeline Avenue.

Wastewater treatment will be the responsibility of the Inland Empire Utilities Agency, which includes payment of the Sewage Facilities Development Fee for each residential unit.

- Water service is also being provided by the City to Tract 18902 through the out-of-agency service agreement between the property owner/developer and the City (LAFCO SC#400). The water main within the tract connects to the existing 8-inch water main in Pipeline Avenue.
- Law enforcement responsibilities, which are currently provided by the City of Chino Hills Police Department by contract with the San Bernardino County Sheriff's Department, will transition to the City of Chino's Police Department following the completion of the reorganization. The City's Police Department is located at 5450 Walnut Avenue, Chino, which is approximately 2.2 miles from the proposal area.
- Solid waste services, currently provided by Waste Management within the reorganization area, will continue to serve the area upon completion of the reorganization since the City also contracts with Waste Management for its services.
- Fire protection and paramedic services are currently provided by the Chino Valley Independent Fire Protection District. No change will occur to this service provider through the reorganization.

As required by Commission policy and State law, the Plan for Service shows that the extension of the City's services will maintain, and/or exceed, current service levels provided through the County and is determined to be sustainable for the foreseeable future.

**ENVIRONMENTAL:**

The City of Chino prepared an environmental assessment and Negative Declaration for Pre-zoning (PL16-0051) for approximately seven acres. The City's environmental assessment has been reviewed by the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, who determined that, if the Commission chooses to approve LAFCO 3213, the City's documents are adequate for Commission's use as a responsible agency under CEQA. The following are the necessary environmental actions to be taken by the Commission as a responsible agency under CEQA:

- a) Certify that the Initial Study and Negative Declaration prepared by the City for Pre-zoning (PL16-0051) for approximately seven acres have been independently reviewed and considered by the Commission, its staff and its Environmental Consultant;
- b) Determine that the City's environmental assessment and Negative Declaration are adequate for the Commission's use as a CEQA Responsible Agency for its consideration of LAFCO 3213;
- c) Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; and,
- d) Direct the Executive Officer to file the Notice of Determination within five (5) days and find that no further Department of Fish and Wildlife filing fees are required by the Commission's approval since the City, as lead agency, has paid said fees.

**Waiver of Protest Proceedings:**

The reorganization area is legally uninhabited (as determined by the Registrar of Voters office) and LAFCO staff originally verified that the study area possessed 100% landowner consent to the annexation. Subsequently, the property owner/developer has required all buyers within the tract to sign the Landowner Consent Form as part of its purchase agreement. As of the date of this report, LAFCO staff has received landowner consent forms for all the landowners for Phase 1 of the development (total of seven), which are the units that have been released for sale by the property owner/developer. Such verification is required for all landowners within the reorganization area with the exception of lands owned by a railroad company.

The standard for verification for a railroad company relates to the submission of written opposition to the waiver of protest proceedings pursuant to Government Code Section 56662(d). Since the reorganization area has lands owned by a railroad company, LAFCO staff notified Union Pacific Railroad, the owner on record for the railroad property, regarding the provisions of Government Code Section 56662(d) and indicated that LAFCO will be waiving the protest proceedings if it does not receive opposition to the waiver from the company prior to the Commission's consideration of LAFCO 3213. As of the date of this

report, LAFCO has not received any opposition from the railroad company to the waiver of protest proceedings.

Based upon these determinations, if the Commission approves LAFCO 3213 and none of the affected agencies have submitted written opposition to a waiver of protest proceedings, staff is recommending, pursuant to Government Code Section 56662(d), that 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.

**CONCLUSION:**

The reorganization proposal was submitted in response to the development of Tract 18902, a 36-unit planned development, which included the requirement to connect to the City of Chino’s water and sewer facilities. In order to facilitate the timely development of the tract, the City permitted the connection to its water and sewer facilities through approval of an Irrevocable Agreement to Annex, which contemplated annexation of the tract sometime in the future. The approval of the out of agency agreement and the Public Improvement agreement required the property owner/developer of the tract to begin the process for annexation into the City pursuant to its policy on receiving services since the parcels associated with the tract are contiguous to the City’s boundary. For these reasons, and those outlined throughout the staff report, the staff supports the approval of LAFCO 3213.

**DETERMINATIONS:**

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

1. The County Registrar of Voters Office has determined that the reorganization area is legally uninhabited, containing zero (0) registered voters as of November 29, 2016.
2. The County Assessor has determined that the total assessed value of land within the reorganization area on the secured assessment roll is \$3,850,000 as of September 14, 2016.
3. The reorganization area is within the sphere of influence assigned the City of Chino.
4. Commission review of this proposal has been advertised in the *Inland Valley Daily Bulletin*, a newspaper 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 notice to the landowners within the reorganization area (totaling 8 notices) and to landowners and registered voters surrounding the reorganization area (totaling 463 notices) in accordance with State law and adopted Commission policies. Comments from landowners/registered

voters and any affected local agency in support or opposition will be reviewed and considered by the Commission in making its determination.

6. The City of Chino has pre-zoned the reorganization area RD8. This zoning designation is consistent with the City's General Plan.
7. The Southern California Associated Governments (SCAG) adopted its 2016-2040 Regional Transportation Plan and Sustainable Communities Strategy pursuant to Government Code Section 65080. LAFCO 3213 has no direct impact on SCAG's Regional Transportation Plan.

The Sustainable Communities Strategy includes, among others, strategies that support compact infill development as well as expanded housing and transportation choices, which approval of LAFCO 3213 will support.

8. As a function of its review for pre-zoning (PL16-0051) for approximately seven acres, the City of Chino 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's Initial Study and Negative Declaration and has indicated that it is his recommendation that the City's environmental assessment and Negative Declaration are adequate for the Commission's review of LAFCO 3213 as a responsible agency under CEQA. The necessary actions to be taken by the Commission, as a responsible agency, are outlined in the Environmental Considerations portion of this report. Mr. Dodson's response and the City's environmental assessments are included as Attachment #4 to this report.

9. The reorganization area is presently served by the following local agencies:

- County of San Bernardino
- Chino Valley Independent Fire Protection District
- West Valley Mosquito and Vector Control District
- Inland Empire Resource Conservation District
- Chino Basin Water Conservation District
- Inland Empire Utilities Agency and its Improvement District No. C (regional wastewater treatment provider)
- Metropolitan Water District of Southern California (the State Water Contractor)
- County Service Area 70 (multi-function unincorporated area Countywide)

County Service Area 70 will be detached as a function of the reorganization. None of the other agencies are affected by this proposal as they are regional in nature.

10. A plan was prepared for the extension of services to the reorganization area, as required by law. The Plan for Service, which was prepared by the Zimmerman Group and was certified by the City, indicates that the City can maintain and/or

improve the level and range of services currently available in the area. A copy of this plan is included as a part of Attachment #2 to this report. The Plan for Service and Fiscal Impact Analysis have been reviewed and compared with the standards established by the Commission and the factors contained within Government Code Section 56668. The Commission finds that the Plan for Service and the Fiscal Impact Analysis, conform to those adopted standards and requirements.

11. The proposal 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. In support of this requirement, the property owner/developer is required to pay all development impact fees to the City of Chino as outlined in the signed Public Improvement Agreement for Tract Map No. 18902 (City of Chino Contract No. 2016-291). A copy of this contract is included as Attachment #3 to this report.
12. The reorganization area can benefit from the availability and extension of municipal services from the City of Chino and is benefitting from water and sewer service being provided by the City to the tract that is being developed.
13. This proposal will assist in the City’s ability to achieve its fair share of the regional housing needs since the reorganization area is being developed with a new tract that has 36 single-family residences.
14. With respect to environmental justice, which is the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services, the following demographic and income profile was generated using ESRI’s Community Analyst within the City of Chino and within and around the reorganization area (2016 data):

Demographic and Income Comparison	City of Chino (%)	Subject Area & adjacent Unincorporated Sphere (%)
Race and Ethnicity		
• African American Alone	6.7 %	2.9 %
• American Indian Alone	1.0 %	1.1 %
• Asian Alone	11.5 %	9.1 %
• Pacific Islander Alone	0.2 %	0.6 %
• Hispanic Origin (Any Race)	56.9 %	53.7 %
Median Household Income	\$75,656	\$93,302

The adjacent unincorporated sphere area already receives water service from either the City or Monte Vista Water District. Wastewater service, if required, is also available from the City through an out-of-agency service agreement for sewer service. Fire protection is already provided by the Chino Valley Independent Fire Protection District, which serves both the City and its entire unincorporated sphere. Therefore, the reorganization area will benefit from the extension of services and

facilities from the City and, at the same time, the approval of the reorganization would not result in the deprivation of service or the unfair treatment of any person based on race, culture or income.

15. The County of San Bernardino and the City of Chino 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.
16. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

KRM/sm

Attachments:

1. Vicinity Maps and Reorganization Area Maps
2. Application and Plan for Service Including Fiscal Impact Analysis
3. Public Improvement Agreement for Tract Map No. 18902
4. Response from Tom Dodson and Associates including the City of Chino's Initial Study and Negative Declaration for Pre-zoning (PL16-0051)
5. Draft Resolution No. 3239