

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: JANUARY 12, 2020 
FROM: SAMUEL MARTINEZ, Executive Officer
MICHAEL TUERPE, Senior Analyst
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #6: LAFCO 3244 -- Reorganization to Include
Annexation to the Town of Apple Valley and Detachment from
County Service Area 70 (Annexation No. 2019-001)

INITIATED BY:

Resolution of the Town Council of the Town of Apple Valley

RECOMMENDATION:

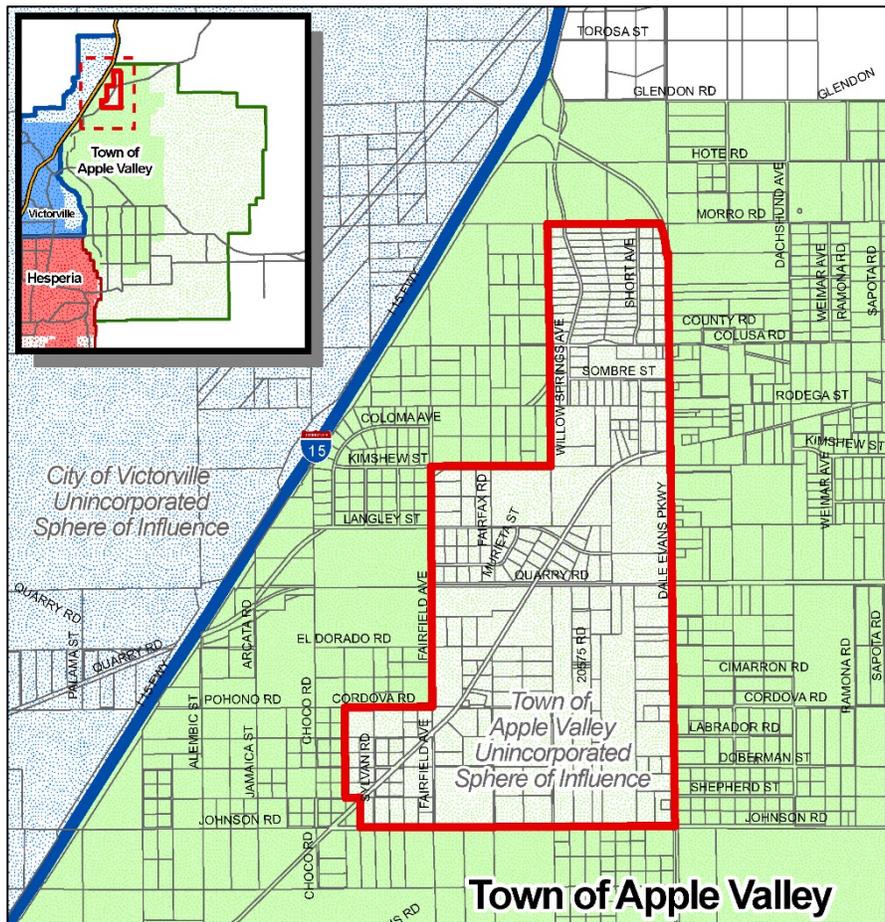
The staff recommends that the Commission approve LAFCO 3244 by taking the following actions:

1. With respect to environmental review:
 - a. Certify that the Commission, its staff, and its Environmental Consultant have independently reviewed and considered the Town of Apple Valley's Addendum to the Environmental Impact Report (SCH#2008091077) prepared by the Town for the Apple Valley 2009 General Plan and Annexation 2008-001;
 - b. Determine that the Town of Apple Valley's environmental assessment is adequate for the Commission's use as a CEQA Responsible Agency for its consideration of LAFCO 3244;
 - c. Determine that the Commission does not intend to adopt alternatives or additional mitigation measures for the proposal; that the mitigation measures identified in the Town of Apple Valley's environmental documents are the responsibility of the Town and/or others, not the Commission; 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 3244 since the Town of Apple Valley, as lead agency, has paid said fees.
2. Approve LAFCO 3244 with the standard LAFCO terms and conditions that include, but are not limited to, the "hold harmless" clause for potential litigation costs by the applicant and the continuation of fees, charges, and/or assessments currently authorized by the annexing agency.
3. Adopt LAFCO Resolution No. 3326, setting forth the Commission's determinations and conditions of approval concerning LAFCO 3244.

BACKGROUND:

LAFCO 3244 is a reorganization proposal initiated by the Town of Apple Valley (hereafter the "Town") that includes annexation of approximately 1,424 acres to the Town and detachment from County Service Area 70. The proposed reorganization area generally includes the remaining Town of Apple Valley unincorporated island located in the Town's northwestern sphere of influence. The map below provides a general



location of the area to be annexed into the Town, which is also included as Attachment #1 to this report.

The reorganization area is totally surrounded by the Town's existing boundary, which is bordered by Morro Road on the north, Dale Evans Parkway on the east, a combination of parcel lines and Johnson Road on the south, and a combination of parcels lines and Fairfield Avenue on the west within the Town's northwestern sphere of influence.

Previous Annexation Proposals

LAFCO 3169

In 2012, the Town tried to annex the entirety of Town's northwestern sphere of influence area, identified by the Town as the "Golden Triangle."

The Town's proposal, LAFCO 3169, was approved by the Commission; however, during the protest proceedings for said proposal, the registered voters within the reorganization area generated enough protest to terminate the proposal.

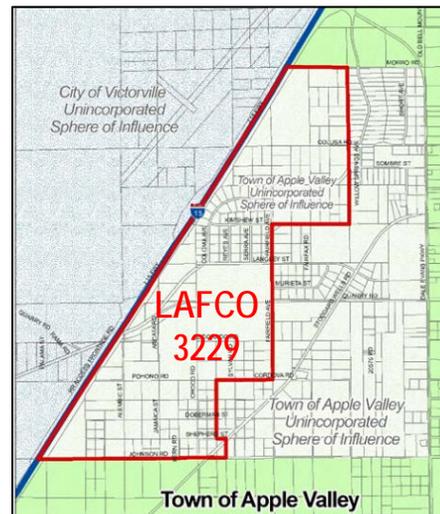


LAFCO 3229

In 2018, the Town returned with a subsequent proposal that proposed the annexation of a portion of Golden Triangle, particularly the area along the I-15 Freeway corridor.

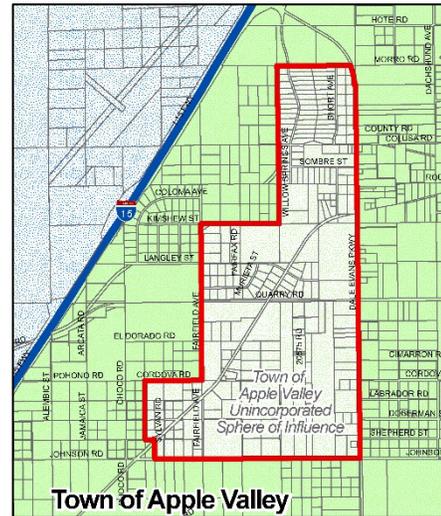
That proposal, LAFCO 3229, was also approved by the Commission; however, the Commission's approval was subject to a condition that required the Town to initiate the annexation of the remainder of the island.

Therefore, the Town's purpose of submitting LAFCO 3244, as outlined in its resolution of initiation, Resolution 2020-26, is to comply with the condition that was imposed on LAFCO 3229, which is to annex the remainder of the island.



Island Provisions:

Although the proposal is a totally-surrounded island initiated by the Town, it is staff's view that LAFCO 3244 does not qualify as an "island" pursuant to either the provisions of Government Code Section 56375(a)(4) or Section 56375.3. These provisions require the Commission to approve an annexation of unincorporated "surrounded or substantially surrounded" territory if the Commission can make certain determinations. One of the determinations, regarding the territory being substantially developed or developing, cannot be justified since the area is generally vacant. Therefore, the Commission has discretion to approve, modify and approve, or deny approval of LAFCO 3244.



Another "island" provision does not apply to LAFCO 3244 – removing the protest process for islands that are 150 acres or less. Therefore, should the Commission approve this proposal, the registered voters and landowners would ultimately decide the fate of LAFCO 3244 through a protest proceeding.

This report provides 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 encompasses approximately 1,424 acres, which includes the entirety of the remaining Town of Apple Valley unincorporated island located in the Town's northwestern sphere of influence.

No boundary issue has been identified. It is LAFCO staff's position that this reorganization proposal provides for a logical boundary since it removes the entire unincorporated territory within the Town.

LAND USE:

The existing County land use designations for the reorganization area include AV (Apple Valley)/RL (Rural Living – one unit; minimum 2.5 acres), AV/RL-5 (Rural Living – one unit; minimum 5 acres), and AV/CR (Rural Commercial). The proposed land use designation as for the entire area in the Countywide Plan is Special Development, which is generally compatible with the Town's anticipated land use plan.

The Town has assigned the area pre-zone land use designations as a part of its General Plan Update, which include the following: Estate Residential (1 unit/1 to 2.5 acres), Medium Density Residential (4 to 20 dwelling units/acre), Mixed Use Residential (4 to 30 dwelling units/acre, retail, and office commercial development), General Commercial (retail, office, and services), Regional Commercial (retail, services, restaurant, and hotel/motel), Planned Industrial (warehousing, light manufacturing, research/development, and administrative), and Public Facility (Town/County facilities, fire stations, schools, utility facilities). These pre-zone designations are consistent with the Town's General Plan and with surrounding land uses.

The Town's pre-zone designations will take effect upon completion of the reorganization process and must remain for a minimum of two years unless specific actions are taken by the Town Council. The law allows for a change in designation if the Town Council makes the finding, at a public hearing, that a substantial change has occurred in circumstances that necessitate a departure from the pre-zoning outlined in the application made to the Commission.

SERVICE DELIVERY 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, unincorporated countywide entity) is the only County service provider within the reorganization area affected by the change. There will be no change in jurisdiction for the Mojave Water Agency (State Water contractor), Apple Valley Fire Protection District (fire protection/paramedic), Mojave Desert Resource Conservation District (portion), and County Service Area 60 (Apple Valley Airport).

The application includes a plan for the extension of services, including a Financial Impact Analysis, as required by law and Commission policy. The Plan and Analysis are included as a part of Attachment #2 to this report. In general, the Plan identifies the following:

Wastewater

The Town of Apple Valley provides for the wastewater collection and transportation within its boundaries. Through annexation, the Town will become responsible for wastewater collection within the area. In the future, wastewater collection services could be extended within the reorganization area.

Wastewater treatment and disposal would be provided by the Victor Valley Wastewater Reclamation Authority (VWVRA), a joint powers entity. VWVRA maintains regional intercept lines that collect and transport wastewater from the Town's system to the regional wastewater treatment plant in Victorville. The Victorville plant treats approximately 10.7 million gallons per day (mgd), which has a capacity of 18 mgd currently that is expected to expand to 22 mgd by 2020, and 30 mgd by 2025.

Water

Water service is provided to the majority of the Town through the Liberty Utilities Company, a water utility governed by the California Public Utilities Commission (“PUC”). Domestic water for existing development is provided by private wells. At present the reorganization area is outside the certificated service area assigned Liberty Utilities, thus it would require an expansion in order to provide service. The PUC has jurisdiction over expansion of a water utility, not LAFCO. The Plan for Service indicates that the Town will require new development within the reorganization area to extend water lines and other facilities to the property frontages and will be responsible for costs associated with the extending the infrastructure.

Fire Protection and Emergency Medical Services

Fire protection and paramedic services are currently provided by the Apple Valley Fire Protection District, which will continue to serve the area following annexation.

Law Enforcement

Law enforcement responsibilities will transfer from the San Bernardino County Sheriff’s Department to the Town of Apple Valley, who already contracts with the Sheriff’s Department for the provision of said service. Local traffic control will transition from the California Highway Patrol to the Town’s contract with the County Sheriff’s Department.

Roads

County maintained roads within the area shall transfer to the Town of Apple Valley upon completion of LAFCO 3244. The Town will then be responsible for roadway construction and maintenance. Construction and improvements will be required as development occurs within the reorganization area. Future development will be responsible for its fair share of roadway improvements.

Solid Waste

The reorganization area is generally undeveloped and generates limited solid waste. Upon completion of LAFCO 3244, the Town of Apple Valley will be responsible for providing solid waste management services to future development within the reorganization area. Burrtec Waste Industries, through its affiliate AVCO Disposal, provides the Town with solid waste collection and disposal services through its contractual agreement with the Town.

AVCO Disposal hauls non-hazardous waste to the Victorville Landfill. AVCO Disposal also provides weekly pick up of recyclable materials for residential, commercial, and industrial development. Recyclables are sorted at the Victor Valley Materials Recovery Facility. Solid waste collection and disposal services are provided on a fee basis to residential, commercial, and industrial customers.

Fiscal Impact Analysis

The Town has included a Fiscal Impact Analysis, as required by Commission policy, which outlines the total potential costs and revenues to the Town. The cost/revenue analysis identifies short-term revenues and possible long-term deficits.

As required by Commission policy and State law, the Plan for Service along with the Financial Impact Analysis, shows the ability of the Town to extend its services to the area upon need through future development and to maintain existing services at the time of reorganization.

ENVIRONMENTAL CONSIDERATIONS:

The Town of Apple Valley prepared an Addendum to the Environmental Impact Report (SCH#2008091077) for the Apple Valley 2009 General Plan and Annexation 2008-001.

The Town's environmental assessment, which includes the 2009 General Plan Environmental Impact Report (which were made available to the Commission) and the Addendum (included as part of Attachment #3), 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 3244, the Town's documents are adequate for Commission's use as a responsible agency under CEQA (California Environmental Quality Act). The following are the necessary environmental actions to be taken by the Commission as a responsible agency under CEQA:

- a. Certify that the Commission, its staff, and its Environmental Consultant have independently reviewed and considered the Town of Apple Valley's Addendum to the Environmental Impact Report (SCH#2008091077) prepared by the Town for the Apple Valley 2009 General Plan Amendment and Annexation 2008-001;
- b. Determine that the Town's environmental assessment are adequate for the Commission's use as a CEQA Responsible Agency for its consideration of LAFCO 3244;
- c. Determine that the Commission does not intend to adopt alternatives or additional mitigation measures for the project; that the mitigation measures identified in the Town's environmental documents are the responsibility of the Town and/or others, not the Commission; 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 3244 since the Town of Apple Valley, as lead agency, has paid said fees.

CONCLUSION:

LAFCO 3244 was initiated by the Town of Apple Valley in order to comply with the condition that was imposed on the previous reorganization proposal, LAFCO 3229, which required the Town to initiate the annexation of the remainder of the “Golden Triangle” area.

LAFCO staff supports approval of LAFCO 3244 as the reorganization area will benefit from the full range of municipal services available through the Town of Apple Valley upon future development.

For all the reasons outlined in the report above, staff recommends approval of LAFCO 3244.

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 inhabited containing 64 registered voters as of December 9, 2020.
2. The County Assessor’s Office has determined that the total assessed valuation of land within the reorganization area is \$13,745,276 as of August 21, 2020 (\$10,119,098--land; \$3,626,178--improvements).
3. The reorganization area is within the sphere of influence assigned the Town of Apple Valley.
4. Legal notice of the Commission’s consideration of the proposal has been provided through publication in the *Daily Press*, a newspaper of general circulation within the area. As required by State law, individual notification was provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notice.
5. In accordance with State law and adopted Commission policies, LAFCO staff has provided individual notice to:
 - landowners (273) and registered voters (64) within the reorganization area (totaling 337 notices), and
 - landowners (287) and registered voters (9) surrounding the reorganization area (totaling 296 notices).

Staff received a letter from a landowner within LAFCO 3244 in support of the reorganization. Any additional comments from registered voters, landowners, and other individuals and any affected local agency in support or opposition will be reviewed and considered by the Commission in making its determination.

6. The Town of Apple Valley has assigned the reorganization area pre-zone land use designations as a part of its 2009 General Plan Update, which include the following: Estate Residential, Medium Density Residential, Mixed Use, General Commercial, Regional Commercial, Planned Industrial, and Public Facility. These zoning designations are consistent with the Town's General Plan and surrounding land uses in the area. The Town's pre-zone designations will remain in effect for a minimum of two years following annexation unless specific actions are taken by the Town Council.
7. The Southern California Associated Governments ("SCAG") recently adopted its 2020-2045 Regional Transportation Plan and Sustainable Communities Strategy (RTP-SCS) pursuant to Government Code Section 65080. The Plan includes the widening of Dale Evans Parkway from the I-15 Freeway to Thunderbird Road (most of which is adjacent to LAFCO 3244) from two to four lanes by 2030. The I-15 Freeway section of the Victor Valley is also scheduled to include an Express Lane in each direction by 2045.
8. The Town of Apple Valley's Local Hazard Mitigation Plan was updated in 2017. The plan does not identify threats for flood, wildfire, and/or earthquake and other natural and human-caused hazards. The reorganization area is not within a flood zone or a fault zone but is considered to be within a moderate fire hazard severity zone.
9. As CEQA responsible agency, the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, has reviewed the Town of Apple Valley's environmental documents for the reorganization proposal and has indicated that the Town's environmental documents for the reorganization proposal are adequate for the Commission's use as CEQA responsible agency. The Town of Apple Valley prepared an Addendum to the Environmental Impact Report (SCH#2008091077) for the Town of Apple Valley 2009 General Plan and Annexation 2008-001.
10. The reorganization area is served by the following local agencies:
 - Apple Valley Fire Protection District
 - County of San Bernardino
 - County Service Area 60 (airport)
 - County Service Area 70 (unincorporated County-wide multi-function)
 - Mojave Desert Resource Conservation District (portion)
 - Mojave Water Agency

County Service Area 70 will be detached upon successful completion of this proposal. None of the other agencies will be directly affected by the completion of this proposal as they are regional in nature.

11. The Town of Apple Valley has submitted a plan for the extension of municipal services to the study area, as required by law, along with a Financial Impact Analysis required by Commission policy. The Plan as well as the Financial Impact Analysis are included as a part of Attachment #2 to this report and indicate that the Town can maintain and/or improve the level and range of services currently available in the area.

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 Plan for Service and the Fiscal Impact Analysis conform to those adopted standards and requirements.

12. The reorganization 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 Town or City so that the full range of municipal services can be planned, funded, extended and maintained.
13. The reorganization area can benefit from the availability and extension of municipal services from the Town of Apple Valley upon future development.
14. This proposal will assist the Town of Apple Valley's ability to achieve its fair share of the regional housing needs as some of the assigned land use designations for the area include Estate Residential, Medium Density Residential, and Mixed Use (residential), all of which allow for some type of residential development in the area.
15. 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 approval of the reorganization to annex the entire island will not result in the deprivation of service or the unfair treatment of any person based on race, culture or income.
16. The County of San Bernardino and the Town of Apple Valley have successfully negotiated a transfer of property tax revenues that will be implemented upon completion of this annexation. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.
17. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

SM/MT

Attachments:

1. [Vicinity Map](#)
2. [Application, Plan for Service and Fiscal Impact Analysis](#)
3. [Environmental Response from Tom Dodson and the Town's Addendum to the Environmental Impact Report \(SCH#2008091077\) for the Apple Valley 2009 General Plan and Annexation 2008-001 Including Links to the Environmental Documents Related to the Town of Apple Valley's Approval of the Apple Valley General Plan And Annexations 2008-001](#)
4. [Draft Resolution No. 3326](#)