

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

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DATE: OCTOBER 12, 2004
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #9 – LAFCO 2964 – Reorganization to Include Annexations to City of Rancho Cucamonga and the West Valley Mosquito and Vector Control District (Henderson Creek – DRC 2003-00753)

INITIATED BY:

Council Resolution, City of Rancho Cucamonga

RECOMMENDATION:

1. Take the following actions with respect to the environmental review for LAFCO 2964:
 - a. Certify that the Addendum to the Final Environmental Impact Report (EIR), the EIR, and other related documents prepared by the City of Rancho Cucamonga have been independently reviewed and considered by the Commission and its Environmental Consultant;
 - b. Determine that the Final EIR for the Henderson Creek Project prepared by the City is adequate for the Commission's use as a CEQA Responsible Agency for its determinations related to LAFCO 2964;
 - c. Adopt the Statement of Findings, Facts, and Overriding Considerations as presented by the Commission's Environmental Consultant, as attached to the staff report; and,
 - d. Direct the Clerk of the Commission to file a Notice of Determination within five days.
2. Approve LAFCO 2964 – Reorganization to include Annexations to the City of Rancho Cucamonga and the West Valley Mosquito and Vector Control

District with the standard terms and conditions that include the “hold harmless” clause for potential litigation costs.

3. Waive protest proceedings, as permitted by Government Code Section 56663(c), with 100% landowner support and concurrence from the City of Rancho Cucamonga and the West Valley Mosquito and Vector Control District; and,
4. Adopt LAFCO Resolution #2849 setting forth the Commission’s terms, conditions, findings, and determinations for approval.

BACKGROUND:

LAFCO 2964, as originally proposed by the City, is a proposal for annexation of approximately 101 +/- acres to the City of Rancho Cucamonga. Upon submission of the application, LAFCO staff expanded the proposal’s review to include the annexation of the territory to the West Valley Mosquito and Vector Control District. This modification complies with Commission policies regarding concurrent annexation to the family of agencies serving a specific community. As the Commission will recall, the West Valley Mosquito and Vector Control District was expanded to include the whole of the City of Rancho Cucamonga in January 2004.

The annexation site is generally located westerly of Wardman Bullock/ Colondero Roads (the existing City boundary), north and east of parcel lines, and southerly of parcel lines which represent the Southern California Edison Company/LA Department of Water and Power corridor. The annexation site encompasses the development known as “Henderson Creek” along with utility corridors adjacent to the site on the north owned by the Southern California Edison Company. Maps showing the vicinity of the project and its actual area are included in this report in Attachment #1.

Surrounding land uses include: to the south -- vacant and scattered residential uses within the County which is currently proposed for annexation to the City as LAFCO 2965 (Etiwanda Creek), to the west -- vacant lands, flood control properties and channels as well as the development project known as the “Tracy Development” (a 265 single-family residential development currently being processed by the City of Rancho Cucamonga and proposed for annexation as LAFCO 2970), to the north -- the Etiwanda Preserve, an open space conservation area managed by County Service Area 70 Improvement Zone OS-1, and to the east -- residential developments within the City of Rancho Cucamonga.

The Henderson Creek project is proposed as a 123 single-family, residential dwelling unit community within the City’s northerly sphere of influence. The land use designation assigned by the City of Rancho Cucamonga through its general plan amendment process is “Residential Low” which allows 2-4 dwelling units per acre. This land use designation has been assigned to 65.3 acres within the

annexation study area. The balance of the acreage within the proposal, approximately 35.7 acres, is anticipated for open space, utility corridors and flood control. Approximately 10 acres of the proposal area are owned by Southern California Edison and used for electrical transmission facilities. Both landowners (Edison and Henderson Creek Properties LLC) have submitted forms consenting to the annexation of their property into the City of Rancho Cucamonga (copies included as Attachment #6).

In regard to the question of logical service providers, it should be noted that the area is currently within the boundaries of the Cucamonga Valley Water District (water and sewer provider), the Inland Empire Utilities Agency (providing wastewater treatment), the Metropolitan Water District of Southern California (water wholesaler) and the Rancho Cucamonga Fire Protection District (City subsidiary district – providing structural fire protection/ prevention, paramedics, etc.). The City of Rancho Cucamonga, through this proposal, proposes to extend its services for legislative and administrative functions, land use planning, law enforcement, park and recreation, road services, etc. The City's Plan for Service includes a Fiscal Impact Analysis that indicates the property tax revenues anticipated to be received, developer fees, assessments through the Landscape Maintenance District and other assessment districts within the City are sufficient to fund the delivery of their services.

The Plan for Service submitted by the West Valley Mosquito and Vector Control District outlines the services to be provided upon annexation and development of the project. It is noted in the financial section that the District's assessment will be extended to this area upon development; while the County's existing Vector Control District will be removed.

Therefore, from most standards of LAFCO review, this would be a very straightforward consideration based upon the information provided, which indicates:

- ❑ That the area is developing and developing at a level that will require a broad range of municipal services and financing structures.
- ❑ It is clear that this area will benefit from the extension of the City's and District's services due to the level of development anticipated.
- ❑ The site is adjacent to urban development and the annexation will allow for the coordination of necessary improvements within the overall area as these vacant lands transition to suburban and urban uses.

Having provided that information, however, there is one additional element that complicates the Commission's consideration. As noted in the summary of surrounding land uses, there are additional annexation applications pending to

the City of Rancho Cucamonga. Attachment #5 provides an aerial view of the relationship of these applications to LAFCO 2964. These proposals are:

LAFCO 2965 – Reorganization including Annexations to City of Rancho Cucamonga and West Valley Mosquito and Vector Control District (Etiwanda Creek – DRC2003-01164) – immediately south of the current proposal

LAFCO 2967 – Reorganization including Annexations to City of Rancho Cucamonga and West Valley Mosquito and Vector Control District (Richland-Pinehurst – DRC2002-00865) – southwest of the current proposal

LAFCO 2970 – Reorganization including Annexations to City of Rancho Cucamonga and West Valley Mosquito and Vector Control District (Tracy Development – DRC2003-01051) – immediately west of the current proposal

Three of the four applications submitted to LAFCO address specific development applications processed by the City and were, therefore, submitted as individual project applications to LAFCO. The final application (LAFCO 2965) was submitted to address the creation of the totally surrounded area at the southeast corner of the overall peninsula area in response to LAFCO staff concerns. Taken together these four proposals propose to annex the entire peninsula of unincorporated territory generally north of Wilson Avenue, east of Etiwanda Avenue and west of Wardman Bullock Road.

The three remaining applications currently have pending environmental litigation filed against them by the Spirit of the Sage Council and Wildlife Habitat Trust questioning the adoption of the EIR and other environmental processing and determination questions. The City of Rancho Cucamonga has submitted a request, dated September 20, 2004, that the Commission consider waiver of its environmental litigation policy which requires that Commission consideration await the outcome of the litigation. This waiver request will be placed on the November 17th agenda for consideration by the Commission.

No such environmental litigation exists for LAFCO 2964, as property owners have signed a Settlement and Release Agreement with Spirit of the Sage Council and Habitat Trust for Wildlife (copy included as Attachment #4). Staff's concern is that, to date, the Settlement Agreement provisions for designation of habitat lands have not been adopted by the City of Rancho Cucamonga. It is staff's understanding that this approval is required by the project's mitigation measures which indicate "a mitigation measure has been imposed to require the project developer to acquire and convey to the County, 58 acres of land within or near the North Etiwanda Open Space and Habitat Preservation Program area, that support

alluvial fan sage scrub and/or upland sage scrub (Mitigation Measures BIO-1)” as well as Item C-10 – Open Space Transfer Plan of the Development Agreement.

In addition, the separation of these applications gives rise to staff concern that if either 2965 or 2967 is unsuccessful, an island of unincorporated territory will be created. Therefore the optimum choice, in staff’s opinion, would be for the Commission to continue consideration of LAFCO 2964 and consolidate these four applications into one, processing them as a single reorganization. However, the primary property owner within LAFCO 2964 has indicated his objection to such a change, noting his desire to proceed with this application in order to complete the needed financing districts, etc. so that development can proceed.

The County Assessor’s Office has verified that the study area possesses 100% landowner consent to annexation and it is legally uninhabited. Staff has requested the City’s and the West Valley Mosquito and Vector Control District’s concurrence to waive the protest proceeding for this proposal as allowed under Government Code Section 56663. The City and District have indicated their consent; therefore, staff is recommending that the Commission approve this proposal, waive further protest proceedings, and direct the Executive Officer to complete the action. A copy of the landowner consent and the City’s and District’s response are included as Attachment #6 to this report.

ENVIRONMENTAL ISSUES:

The City’s processing of the Henderson Creek development application has included the adoption of a general plan amendment, specific plan amendment to the Etiwanda North Specific Plan, and a development agreement. The Commission’s Environmental Consultant, Tom Dodson and Associates, has reviewed the City of Rancho Cucamonga’s Addendum to EIR for the Henderson Creek project and the EIR and determined that they are adequate for the Commission’s review of the proposed annexation as a responsible agency. A copy of the City’s Addendum, Final EIR and Findings and Statement of Overriding Considerations was provided to Commission members on September 15, 2004. In addition, Mr. Dodson has provided a Statement of Overriding Considerations for the Commission’s use (Attachment #7).

The necessary actions to be taken by the Commission, as a responsible agency, include the following:

- a. Indicate that the Commission has reviewed and considered the Final EIR, the Addendum to the EIR, and related actions by the City of Rancho Cucamonga.
- b. Determine that the Final EIR for the Henderson Creek project and the Addendum to the EIR are adequate for the Commission’s use in making its decision related to the annexation, indicating that no

alternatives, other than those reviewed by the City, are to be considered and that the mitigation measures identified are the responsibility of the City of Rancho Cucamonga and others, and not the Commission.

- c. Adopt the Statement of Findings, Facts and Overriding Considerations as presented.
- d. Direct the Clerk to file a Notice of Determination within five 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.

FINDINGS:

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

1. The Registrar of Voters Office has determined that the subject 101 +/- acre study area, proposed for reorganization, has been certified as legally uninhabited, with no registered voters, as of July 14, 2004.
2. The County Assessor has determined that the assessed value of land within the reorganization area is \$4,911,558 as of June 30, 2004. One parcel within the annexation application is owned by Southern California Edison and is not assigned a land value. Consent forms have been received on behalf of the two landowners – Henderson Creek Properties LLC and Southern California Edison; therefore no assignment of value for protest purposes has been requested from the County Assessor's office. The consent has been verified as 100% of the landowners.
3. Notice of this hearing was published in *The Sun*, and the *Inland Valley Daily Bulletin*, newspapers of general circulation in the area, as required by law. Individual notice has been provided to those individuals and agencies having requested such notification.
4. LAFCO staff has provided individual notification to landowners within the reorganization area (2) and to landowners and registered voters surrounding the study area (86) in accordance with state law and adopted Commission policies. To date, no comments or protest have been received to the notice provided regarding the consideration of this proposal.
5. The City of Rancho Cucamonga has processed a General Plan Amendment, Zone Change for pre-zoning, Amendment to the North Etiwanda Specific Plan, and Tentative Tract Map Sub TT16324, and adopted a Development Agreement related to the project identified as "Henderson Creek". The

General Plan Amendment assigns the privately-owned 90.4 acres of the project a land use designation for low-density residential uses, flood control and utility corridors. The development plan identifies that 123 single-family residential units may be developed within the project on approximately 65.3 acres. The balance of the acreage (35.7 acres) is designated as Open Space/Conservation (5.2 acres), utility corridors (10 +/- acres), and flood control. The utility corridors within the annexation site have been designated as “UC” Utility Corridor through the North Etiwanda Specific Plan adopted in April of 1992. These land use designations and processing are more fully discussed in the narrative to this report; however, these designations conform to the General Plan of the City of Rancho Cucamonga, as modified. Pursuant to the provisions of Government Code Section 56375(e) these pre-zoning designations shall remain in effect unchanged for two years following annexation unless specific actions are taken by the City Council.

6. The City and West Valley Mosquito and Vector Control District have submitted plans for service, as required by law and Commission policy (Attachments #2 and #3). These plans outline that the City and District can maintain and/or improve the level and range of services that are currently available to the study area. Upon annexation, the City and affected agencies will extend their services as required by the progression of development. The financial information portion of the Plans for Service provides a general outline of the anticipated revenues/costs for this area and indicates that revenues are anticipated to be sufficient to provide the level of services identified through the City and District. The City’s Plan for Service indicates that supplemental funding through the formation of a Landscape Maintenance District will be initiated for maintenance and operation of the storm drains, landscaped slopes, detention basin and trails; the area will be annexed into the City’s existing Arterial Streetlighting District and the Etiwanda North Streetlight District for maintenance of the streetlights required in the project. The District’s Plan for Service indicates that its assessment for services will be levied upon the residential portions of the project upon development and the County’s existing Vector Control Assessment will be removed. Through these mechanisms, the Plans show that the level of service will be adequate for the development anticipated and that the revenues anticipated are sufficient to provide for the infrastructure and ongoing maintenance and operation of these services.
7. As a CEQA responsible agency, the Commission’s Environmental Consultant, Tom Dodson of Tom Dodson and Associates, has reviewed the environmental documents for the reorganization proposal submitted by the City of Rancho Cucamonga and has indicated that the Addendum and EIR that were certified by the City are adequate for the Commission’s use, as more fully described in the narrative portion of this report. Mr. Dodson has prepared and recommends adoption of the Facts, Findings, and Statement of Overriding

Considerations prepared for LAFCO 2964. A copy of Mr. Dodson’s response is included as Attachment #7 to this report.

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

County of San Bernardino

County Service Area 70 (multi-function district for unincorporated area countywide)

County Service Area 70 Improvement Zone OS-1 (open space and habitat conservation district)

Rancho Cucamonga Fire Protection District (city subsidiary district)

Cucamonga Valley Water District and its Improvement Districts No. 5 and No. 6

Inland Empire Utilities Agency (formerly known as Chino Basin Municipal Water District) and its Improvement Districts identified as Mid-Valley Area and District “C”

Metropolitan Water District of Southern California

Inland Empire West Resource Conservation District

County Service Area 70 and CSA 70 Improvement Zone OS-1 will be detached through successful completion of this annexation pursuant to the provisions of Government Code Section 25210.90. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries as they are regional service providers.

9. The reorganization proposal complies with Commission policies which indicate the preference for areas proposed for development at urban-level land uses to be included within a City so that the full range of municipal services can be planned, funded, extended and maintained.
10. The proposed residential development portion of the study area can benefit from the availability and extension of municipal-level services from the City of Rancho Cucamonga. The balance of the area can benefit from the extension of law enforcement services provided through the City of Rancho Cucamonga. The whole of the reorganization area can benefit from mosquito and vector control services through the West Valley Mosquito and Vector Control District.
11. The County of San Bernardino and the City of Rancho Cucamonga have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code.
12. This proposal will assist the City’s ability to achieve its fair share of the regional housing needs upon development, which anticipates 123 new single-family residential units.

13. 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

Attachments:

- 1 -- Location and Vicinity Maps
- 2 -- City Application, Plan for Service and Development Agreement
- 3 -- Plan for Service for West Valley Mosquito and Vector Control District
- 4 -- Settlement Agreement and Release Agreement between Henderson Creek Properties LLC and Spirit of the Sage Council, et al.
- 5 -- Aerial Map of Series of City of Rancho Cucamonga Annexation Applications
- 6 -- Landowner Consent and Concurrence to Waive Protest Proceedings
- 7 -- Response from Tom Dodson, Tom Dodson and Associates, with Statement of Overriding Considerations and Related Environmental Information
- 8 -- Draft Resolution No. 2849