



March 10, 2021

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CAROLYN EMERY
EXECUTIVE OFFICER

TO: Local Agency Formation Commission

FROM: Executive Officer
Policy Analyst

SUBJECT: Proposed "Givens Property Detachment from the City of Orange (CD 20-12)"

SUMMARY

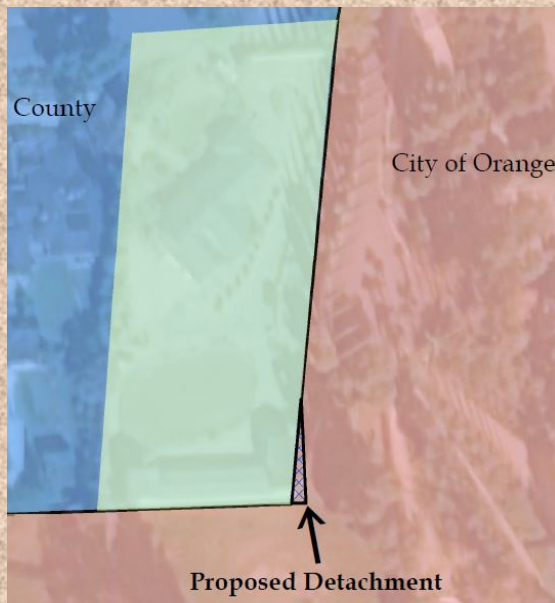
The Local Agency Formation Commission of Orange County (LAFCO) will consider a change of organization application filed by a private landowner to detach approximately 397 square feet from the City of Orange. The purpose of the proposal is to facilitate the correction of an existing encroachment and code violations of the property. Staff recommends approval of the detachment from the City's jurisdictional boundary and no change to the City's Sphere of Influence (SOI).

PROJECT APPLICATION

A private landowner has filed an application and petition with LAFCO initiating the detachment of approximately 397 square feet of a larger property from the City of Orange. The larger portion of the property consists of a single-family residence constructed in the 1970s and located within unincorporated Orange County. After completing the primary residence, the owners built an accessory structure consisting of a barn and a two-story guest house. The accessory structure was built without the required building permits resulting in code violations and encroachment into a property located within the City of Orange. The landowner is seeking to correct the encroachment of his property through an application to Orange LAFCO to detach the proposed territory from the City of Orange.

Location and Land Use

The subject territory proposed for detachment is shown on the map below and is generally located along Acre Place and adjacent to North Coyote Lane within the City of Orange. To the West and immediately adjacent to the subject territory is the unincorporated area of Orange Park Acres, which is primarily a single-family residential community. A vicinity map of the proposed detachment is also shown in Exhibit A.



Givens Property Detachment from the City of Orange (CD 20-12):

- **Acreage: .009 (397 sq. ft.)**
- **Land Use: Suburban Residential**

The land use designation for the subject territory within the City of Orange General Plan is R-O Recreational Open Space, with surrounding land use designated as R-1-40 Single Family Residential. The County of Orange has rezoned the subject territory as 1B Suburban Residential and E4-1 (SR)(E) Small Estates, which is consistent with the County's General Plan.

DISCUSSION

The primary purpose of the proposed detachment is to facilitate the correction of existing encroachment and code violation issues within the proposed territory. Additionally, the detachment would allow for the placement of the landowner's entire single-family residence under the primary jurisdiction of the County of Orange. The property owner's accessory structure was unknowingly built encroaching the jurisdictional boundary of the City of Orange and, in doing so, resulted in the splitting of the geographical location and governance of the property between two local government agencies.

Analysis

Over the past several months, the staffs of the County, City and LAFCO and representatives of the landowner have worked diligently to find a resolution to address these issues. It was determined that detaching the portion of the Givens property containing the encroachment and boundary issues from the City of Orange would be the best path forward. This action would facilitate the correction to the encroachment of property and result in a more logical boundary between the City and County by placing the entire property under the sole jurisdiction of the County.

Table A below depicts both the existing and future service providers upon approval of the detachment.

Table A- Proposed Givens Property Detachment – Municipal Services		
Service	Provider (Existing)	Provider (Upon detachment)
Animal Control	County of Orange	County of Orange
Fire Protection	City of Orange	County of Orange
Library Service	City of Orange	County of Orange
Parks & Recreation	City of Orange	County of Orange
Planning	City of Orange	County of Orange
Police Service	City of Orange	County of Orange
Local Water/Wastewater	Irvine Ranch Water District	Irvine Ranch Water District
Regional Providers (No Change)		
Municipal Water District of Orange County (<i>wholesale water</i>)		
Orange County Cemetery District (<i>countywide public cemetery</i>)		
Orange County Sanitation District (<i>regional wastewater</i>)		
Orange County Mosquito and Vector Control (<i>countywide vector control</i>)		

Additionally, State law requires the Commission to review and consider several factors for the proposed project. The details of those factors are presented in **Attachment A**.

Other Statutory Requirements

Exchange of Property Tax Revenues

California Revenue and Taxation Code Section 99 requires the City and County to adopt property tax resolutions for proposed changes of organization and reorganization. The City of Orange adopted a property tax exchange resolution on December 8, 2020 and the County of Orange will consider the property tax exchange resolution on March 23, 2021. The City and County agree that the property tax subject to negotiation involving the detachment is de minimus and the County staff has determined the amount to be directed to the County is zero. The property tax agreement approved by the County must be received by LAFCO prior to the recordation of the LAFCO Certificate of Completion for the proposed detachment.

Environmental Review

On September 28, 2020, the County of Orange, as the lead agency under the California Environmental Quality Act (CEQA), approved a Notice of Exemption. As a responsible agency, the Commission will consider the environmental documentation prepared by the County in its consideration of the proposed detachment. A Notice of Exemption is included within this report for the Commission's consideration (**Exhibit B**).

Protest Proceedings


In accordance with Government Code Section 56662, the Commission may waive the protest proceedings for the proposed detachment. The waiver of protest proceedings appropriately applies under this statute as the subject territory is uninhabited, the subject agencies have not filed objections to the waiver, and all landowners have consented to the proposed detachment.

RECOMMENDED ACTIONS

Staff recommends that the Commission take the following actions:

1. Certify that the Commission has reviewed and considered the information contained within the Notice of Exemption prepared by the County of Orange.
2. As a responsible agency, approve the Notice of Exemption for the "Givens Property Detachment from the City of Orange (CD 20-12)." (Exhibit B)
3. Adopt Orange LAFCO Resolution No. CD 20-12 approving the "Givens Property Detachment from the City of Orange." (Attachment B)
4. Waive protest proceedings for the "Givens Property Detachment from the City of Orange (CD 20-12)" in accordance with Government Code Section 56662.

Respectfully Submitted,


CAROLYN EMERY


GAVIN CENTENO

Attachments:

- A. 56668 Factors Considered by the Commission
- B. Orange LAFCO Resolution No. CD 20-12

FACTORS CONSIDERED IN REVIEW OF PROPOSAL

I. Population and population density, land area and land use, and assessed valuation.

- The subject territory is currently uninhabited.
- The land use designation for the proposed 397 square foot detachment is currently identified as R-O Recreational Open Space in the City of Orange General Plan.
- The County of Orange has rezoned the subject territory as 1B Suburban Residential and E4-1 (SR)(E)Small Estates, consistent with the County's General Plan.
- The subject territory is within Tax Rate Area 76-099.
- The City and the County agree that the property tax subject to negotiation involving the detachment is de minimis, and the County staff has determined the amount to be directed to the County is zero.

II. Organized community services, present cost and adequacy, and future needs of governmental services, and probable effect of the proposed detachment.

- The subject territory proposed for detachment is located within the City of Orange who is responsible for most of the municipal services within the territory.
- The County of Orange provides municipal services to the existing single-family residence, a larger portion of the subject territory located in the unincorporated Orange County..
- If the Commission approves the proposed detachment, the entire property will be placed under the County of Orange's jurisdiction and will receive adequate municipal services from the County of Orange. See Table 1 below for the current and proposed service providers for the subject territory upon approval of the detachment.

Table 1- Current and Proposed Service Providers

Service	Provider (Existing)	Provider (Upon Detachment)
Animal Control	County of Orange	County of Orange
Fire Protection	City of Orange	County of Orange
Library Service	City of Orange	County of Orange
Parks & Recreation	City of Orange	County of Orange
Planning	City of Orange	County of Orange
Police Service	City of Orange	County of Orange
Local Water/ Wastewater	Irvine Ranch Water District	Irvine Ranch Water District
Regional Providers (No Change)		
Municipal Water District of Orange County (<i>wholesale water</i>)		
Orange County Cemetery District (<i>countywide public cemetery</i>)		
Orange County Sanitation District (<i>regional wastewater</i>)		
Orange County Mosquito and Vector Control (<i>countywide vector control</i>)		

III. Effect on adjacent areas, mutual social and economic interests, local government structure.

- Approval of the proposed detachment will not have an effect on adjacent areas, mutual social and economic interests, and local government structure. The proposed detachment will result in more logical boundary and efficient delivery of municipal services.

IV. The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Government Code Section 56377.

- The encroachment of the landowner's accessory structure was built within the City of Orange, which designated the area as Recreational Open Space. However, the subject territory has been designated by the County of Orange as 1B Suburban Residential and E4-1 (SR) (E) Small Estates, which is more consistent with the existing land use within the subject territory.
- The proposed detachment was processed in accordance with Commission policies and procedures and is consistent with the priorities set forth in Government Code Section 56377.

V. Effect on maintaining the physical and economic integrity of agricultural lands.

- No agricultural lands are contained within or adjacent to the subject territory.

VI. The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

- The proposed boundary has been reviewed by staff and does not create any islands or corridors of unincorporated territory.

VII. Regional Transportation Plan (RTP) adopted and Consistency with city or county general and specific plans.

- The proposed detachment of territory is consistent with the County's General Plan and will not impact the Regional Transportation Plan and Sustainable Communities Strategy that have been adopted for the region by the Southern California Association of Governments.

VIII. The proposal's consistency with city or county general and specific plans.

- The subject territory proposed for detachment is consistent with the County of Orange's General Plan.

IX. Comments from affected agencies and/or other public agency.

- In accordance with Government Code Section 56658(b), on January 21, 2021, all affected agencies were notified of the proposal. At the end of the comment period, February 10, 2021, no comments on the proposed detachment were received.

X. Ability of newly formed or receiving entity to provide services to proposal area and sufficiency of revenues for those services.

- The County of Orange has sufficient revenues and can provide adequate municipal services to the proposed territory.

- XI. Timely availability of water supplies adequate for projected needs as specified in Government Code Section 65352.5.**
- The detachment of the subject territory from the City of Orange will not interrupt or alter the current service provision and the availability of water supplies as specified in Government Code Section 65352.5. Irvine Ranch Water District currently provides retail water to the affected territory. Wholesale water is currently provided by the Municipal Water District of Orange County. Upon detachment, the local providers of water services will remain the same and can adequately provide these services to the affected territory.
- XII. Extent to which the proposal will affect a City(ies) and the county in achieving their respective fair shares of the regional housing needs.**
- There were no comments received from the City or County of Orange regarding the extent to which the proposal will affect their respective allocation of the regional housing needs.
- XIII. Information or comments from landowners, voters, or residents within affected territory.**
- Orange LAFCO staff received consent from the landowner within the affected territory.
 - In accordance with Government Code Section 56157, a notice of the public hearing was mailed to all landowners within 300 feet of the exterior boundary of the subject territory. As of the agenda distribution, no comments had been received.
- XIV. Information relating to existing land use designations.**
- The land use designation for the subject territory is currently designated in the City's General Plan as R-O Recreational Open Space and the surrounding land use is R-1-40 Single Family Residential.
 - The County of Orange has rezoned the subject territory as 1B Suburban Residential and E4-1 (SR) (E)Small Estates, consistent with the County's General Plan.
- XV. The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means 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 proposed detachment will not affect environmental justice as it relates to 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 subject territory will receive the same level of public services.
- XVI. Information contained in a local hazard mitigation plan, information contained in safety element of a general plan, and any maps that identify land as very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to 4102 of the Public Resources Code.**
- Government Code Section 51178 requires the California Department of Forestry and Fire Protection (CAL FIRE) to identify "very high fire hazard severity zones" using consistent statewide criteria. The Orange County Board of Supervisors has adopted the very high fire hazard Severity Zones Map for Unincorporated Orange County and does not identify the subject territory to be within a very high fire hazard severity zone.

CD 20-12

**RESOLUTION OF THE LOCAL AGENCY
FORMATION COMMISSION OF ORANGE COUNTY, CALIFORNIA
MAKING RESPONSIBLE AGENCY FINDINGS UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT AND APPROVING THE "GIVENS
PROPERTY DETACHMENT FROM THE CITY OF ORANGE (CD 20-12)"**

March 10, 2021

On motion of Commissioner _____, duly seconded and carried, the following resolution was adopted:

WHEREAS, the proposed change of organization, designated as "Givens Property Detachment from the City of Orange (CD 20-12)," was hereto filed with and accepted for filing on March 1, 2021 by the Executive Officer of the Local Agency Formation Commission of Orange County ("LAFCO") pursuant to Title 5, Division 3, commencing with Section 56000 et seq. of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658 set for March 10, 2021 as the hearing date of this proposal; and

WHEREAS, as the Executive Officer, pursuant to Government Code Section 56665 has reviewed this proposal and prepared a report including her recommendation therein and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the proposed detachment, consists of the detachment of approximately 397 square feet of uninhabited territory from the City of Orange identified as the "Givens Property Detachment from the City of Orange (CD 20-12)"; and

WHEREAS, the County of Orange served as the lead agency for the environmental review, analysis, and approval of the Dennis and Elizabeth Givens Accessory Structure pursuant to the requirements of the California Environmental

Quality Act (Public Resources Code section 21000 et seq.) and the State CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.) (“CEQA”); and

WHEREAS, pursuant to CEQA, on September 28, 2020, the County of Orange adopted a Notice of Exemption (“NOE”) for the Dennis and Elizabeth Givens Accessory Structure; and

WHEREAS, the LAFCO has been asked to approve the proposed “Givens Property Detachment from the City of Orange (CD 20-12)”;

WHEREAS, LAFCO has limited approval and implementing authority over the Dennis and Elizabeth Givens Accessory Structure and thus, is a “responsible agency” for the proposed detachment pursuant to the requirements of CEQA; and

WHEREAS, LAFCO, at its agendized public meeting on March 10, 2021, independently reviewed and considered the NOE and other related documents in the record before it; and

WHEREAS, all the procedures of CEQA have been met, and the NOE, prepared in connection with the detachment proposal, is sufficiently detailed so that all of the potential effects of the proposal on the environment and measures necessary to avoid or substantially lessen such effects have been evaluated in accordance with CEQA; and

WHEREAS, as contained herein, LAFCO has endeavored in good faith to set forth the basis for its decision on the proposed detachment; and

WHEREAS, this Commission called for and held a public hearing on the proposal on March 10, 2021, this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons presented were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, all of the findings and conclusions made by LAFCO pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and not based solely on the information provided in this Resolution; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

Resolution (CD 20-12)

NOW, THEREFORE, the Commission of LAFCO does hereby resolve as follows:

Section 1. LAFCO FINDINGS

The subject territory is found to be uninhabited, is currently within the City of Orange's jurisdictional boundary and sphere of influence and is assigned the following distinctive short-form designation, "Givens Property Detachment from the City of Orange (CD 20-12)" - See Exhibit A. The proposal consists of the detachment of approximately 397 square feet generally located on Acre Place and adjacent to North Coyote Lane within the City of Orange and no change in the City of Orange sphere of influence; and

Section 2. Compliance with the Environmental Quality Act.

As the decision-making body for LAFCO, and in LAFCO's limited role as a responsible agency under CEQA, the Commission has reviewed and considered the information contained in the NOE, and all supporting documentation, copies of which are on file at LAFCO's office and are incorporated by reference as though set forth fully herein. Based on this review, the Commission finds that, as to those potential environmental impacts within the Commission's powers and authorities as responsible agency, that the NOE, and supporting environmental documentation contain a complete, objective, and accurate reporting of those potential impacts, and that these findings reflect the independent judgement and analysis of the Commission.

Section 3. Findings on Environmental Impacts.

The Commission concurs with the County of Orange environmental findings regarding the proposed detachment and adopts these findings, attached hereto as "Exhibit B," as though fully set forth herein.

Section 4. The proposal is approved subject to the following terms and conditions.

- a) Adoption of a resolution by the County of Orange for the exchange of property tax revenues resulting in the amount of zero directed to the County of Orange.
- b) A final map and legal description approved and signed by the County Surveyor, meeting the standard and requirements of the County Surveyor and the State Board of Equalization.
- c) Payment by the applicant of County Clerk-Recorder and State Board of Equalization fees.
- d) The effective date shall be the date of recordation.

Section 5. Notice of Exemption.

The Commission directs staff to file a Notice of Exemption with the Orange County Clerk's Office within five working days of the adoption of this Resolution.

Section 6. Custodian of Records.

The documents and materials that constitute the record of proceedings on which this Resolution and the above findings have been based are located at the offices of LAFCO. The custodian for these records is the Local Agency Formation Commission of Orange County, 2677 North Main Street, Suite 1050, Santa Ana, California 92705.

PASSED, APPROVED AND ADOPTED, by the Commissioners of the Local Agency Formation Commission of Orange County this 10th day of March 2021.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of March 2021.

DOUGLASS DAVERT
Chair of the Orange County
Local Agency Formation Commission

By: _____
Douglass Davert







County

City of Orange

Proposed Detachment

Legend

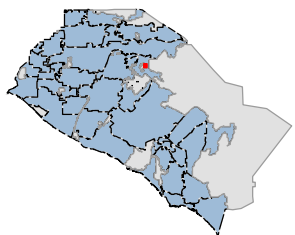
-  Proposed Detachment
-  Givens Property
-  City of Orange
-  County

0 0.0125 0.025 0.05 Miles

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

**"Givens Property Detachment from the City of Orange
(CD 20-12)"**

Vicinity Map



NOTICE OF EXEMPTION

TO:	FROM:	Local Agency Formation Commission of Orange County (Responsible Agency)
<input type="checkbox"/> Office of Planning and Research P. O. Box 3044, Room 113 Sacramento, CA 95812-3044	(Public Agency)	
<input checked="" type="checkbox"/> Clerk of the Board of Supervisors or County Clerk County of: Orange Address: 211 W. Santa Ana Blvd. Santa Ana, CA 92701	Address	2677 North Main Street Suite 1050 Santa Ana, CA 92705

1.	Project Title:	"Givens Property Detachment from the City of Orange (CD 20-12)"
2.	Project Applicant:	Mr. Dennis Givens and Mrs. Elizabeth Givens 20392 East Acre Place, Orange CA 92869
3.	Project Location – Identify street address and cross streets or attach a map showing project site (preferably a USGS 15' or 7 1/2' topographical map identified by quadrangle name):	The project is generally located on Acre Place and adjacent to North Coyote Lane within the City of Orange. (see vicinity map attached)
4.	(a) Project Location – District	
	(b) Project Location – County	Orange
5.	Description of nature, purpose, and beneficiaries of Project:	The project involves the detachment of approximately 397 square feet of uninhabited territory from the City of Orange. The purpose of the proposal is to facilitate the correction of an existing encroachment and code violations of the property.
6.	Name of Public Agency approving project:	Local Agency Formation Commission of Orange County
7.	Name of Person or Agency undertaking the project, including any person undertaking an activity that receives financial assistance from the Public Agency as part of the activity or the person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the activity:	County of Orange
8.	Exempt status: (check one)	
(a)	<input type="checkbox"/> Ministerial project.	(Pub. Res. Code § 21080(b)(1); State CEQA Guidelines § 15268)
(b)	<input type="checkbox"/> Not a project.	
(c)	<input type="checkbox"/> Emergency Project.	(Pub. Res. Code § 21080(b)(4); State CEQA Guidelines § 15269(b),(c))

EXHIBIT B

(d)	<input checked="" type="checkbox"/>	Categorical Exemption. State type and section number:	Changes in Organization of Local Agencies Class 20 § 15320
(e)	<input type="checkbox"/>	Declared Emergency.	(Pub. Res. Code § 21080(b)(3); State CEQA Guidelines § 15269(a))
(f)	<input type="checkbox"/>	Statutory Exemption. State Code section number:	CEQA Guidelines §15262 (Feasibility and Planning Studies)
(g)	<input type="checkbox"/>	Other. Explanation:	
9.	Reason why project was exempt:		The change in the organization of a local governmental agency does not change the geographical area.
10.	Lead Agency Contact Person:		Gavin Centeno, Policy Analyst
	Telephone:		(714) 640-5100
11.	If filed by applicant: Attach Preliminary Exemption Assessment (Form "A") before filing.		
12.	Has a Notice of Exemption been filed by the public agency approving the project? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
13.	Was a public hearing held by the Lead Agency to consider the exemption? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, the date of the public hearing was: September 8, 2020		

Signature: _____ Date: _____ Title: Executive Officer

Name:

☒ Signed by Responsible Agency ☐ Signed by Applicant

Date Received for Filing: _____

(Clerk Stamp Here)

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.