



Town Council Agenda Report

Date: May 14, 2019 Item No. 9

To: Honorable Mayor and Town Council

Subject: PUBLIC HEARING #3 TO RECEIVE INPUT REGARDING THE CONTENT OF THE DRAFT MAPS AND THE PROPOSED SEQUENCE OF ELECTIONS

From: Douglas B. Robertson, Town Manager

Submitted by: Thomas A. Rice, Town Attorney

Budgeted Item: Yes No N/A

RECOMMENDED ACTION

That the Town Council open the public hearing, receive input regarding the content of the draft maps and the proposed sequence of elections, and close the public hearing.

BACKGROUND

In recent years, a number of cities in California have been sued under the CVRA. Typically, plaintiffs allege that the defendant city's at-large election system has resulted in "racially polarized" voting, which is defined in the CVRA as "voting in which there is a difference . . . in the choice of candidates of other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate." (Elec. Code, § 14026 (e).) The lawsuits usually request that the defendant city transition to a by-district system. In a by-district election system, a council candidate must reside within an election district that is a divisible part of the jurisdiction and is elected only by voters residing within that election district.

Since the CVRA was signed into law, many local government entities have converted (or are in the process of converting) to by-district elections. The move toward by-district election systems is not surprising in light of the cost of litigating under the CVRA. For example, Palmdale settled a CVRA lawsuit in 2015 for \$4.5 million, Modesto paid \$3 million to settle a similar case in 2008, and Anaheim settled in 2014 for an amount reported to be possibly as high as \$2 million. These numbers do not include the cities' costs in paying their own attorneys to defend the lawsuits. In recent months, the City of Santa Monica has attempted to defend its at-large election system in the Los Angeles Superior Court. Though the final judgment has not been issued, the tentative decision

of the Court is against the City and it has been reported that the City spent \$10 million on the matter.

In 2016, the California legislature adopted AB 350 amending Elections Code section 10010 to cap the attorneys' fees a prospective plaintiff may recover if a public agency adopts a resolution of intention to change to a by-district system of elections within 45 days following the receipt of a letter from that prospective plaintiff alleging a CVRA violation.

On January 2, 2019, the Town received a letter from Kevin Shenkman of Shenkman & Hughes, PC, alleging that the Town's at-large election system diluted the ability of certain protected classes of persons within the Town to elect candidates of their choice.

On February 15, 2019, at a special meeting, the Town Council adopted a resolution of intent under Elections Code section 10010. On February 27, 2019, the Town entered into a tolling agreement with Mr. Shenkman's client to extend the period during which the Town must transition from at-large to by-district elections from 90 to 180 days. With the tolling agreement in place, the Town Council must complete the following steps by August 14, 2019:

- (1) Conduct public outreach to explain the districting process and to encourage public participation;
- (2) Hold at least two public hearings at which the public is invited to provide input regarding the composition of the districts and to consider district boundaries as provided in Elections Code Section 10010;
- (3) Publish draft maps based on those hearings;
- (4) Hold at least two more public hearings at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections;
- (5) Hold a public hearing at which the Town Council will consider the introduction of an ordinance establishing district elections, including the adoption of a district boundary map and the sequence of the district elections; and
- (6) Adopt an ordinance at a regular meeting of the Town Council.

The Town has published the following tentative schedule on its website for the completion of these steps:

Date and Time	Event	Location
March 26, 6:30 p.m.	Public Hearing #1	Council Chambers 14955 Dale Evans Parkway Apple Valley, CA 92307
April 3, 5 p.m.	Public Workshop	Conference Center South 14975 Dale Evans Parkway Apple Valley, CA 92307
April 9, 6:30 p.m.	Public Hearing #2	Council Chambers 14955 Dale Evans Parkway

		Apple Valley, CA 92307
May 5	Release of Maps	Available online and in the Town Clerk's Office
May 14, 6:30 p.m.	Public Hearing #3	Council Chambers 14955 Dale Evans Parkway Apple Valley, CA 92307
TBD (Week of May 20)	Public Workshop	TBD
June 11, 6:30 p.m.	Public Hearing #4	Council Chambers 14955 Dale Evans Parkway Apple Valley, CA 92307
July 9, 6:30 p.m.	Public Hearing #5 and Introduction of Ordinance	Council Chambers 14955 Dale Evans Parkway Apple Valley, CA 92307
July 23, 6:30 p.m.	Adoption of Ordinance	Council Chambers 14955 Dale Evans Parkway Apple Valley, CA 92307

On March 26 and April 9, the Town Council conducted public hearings to receive input from the public on the possible composition of districts. Town staff held an additional public workshop on April 3 to receive additional public input in a less formal environment. After closing the public hearing held on April 9, the Town Council provided direction related to the factors to be considered in preparing the district maps.

ANALYSIS

The purpose of this meeting is to conduct the third public hearing at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections.

Criteria for Establishing Districts

The drawing of districts is regulated by both state and federal law, including the CVRA and the Federal Voting Rights Act. For example, under federal law, districts may not be drawn with race as the predominate factor. (*Shaw v. Reno* (1993) 509 U.S. 630.) Further, under Health and Safety Code section 13846 (e) and Elections Code section 22000, districts must be drawn as nearly equal in population as may be according to the latest federal decennial census. In establishing the boundaries, the Town Council may give consideration to the following factors:

- (1) Topography (e.g., rivers, mountains, cliffs, and lakes);
- (2) Geography (e.g., land use patterns, major roadways, and railway lines);
- (3) Cohesiveness, Contiguity, Integrity, and Compactness of Territory; and

- (4) Community of Interest of the Divisions (e.g., homeowner's associations, historic communities, school districts, and downtown areas).

The professional demographer retained by the Town to draw districts has worked to ensure the districts are compliant with these standards.

Direction Based on Public Input

Following the second public hearing on April 9, the Town Council directed staff to prepare maps considering the following factors:

- Geography
 - Use major roadways as dividing lines
 - Consider future growth areas
- Communities of Interest
 - Attempt to keep distinct communities together
 - Attempt to place some commercial property in every district
 - Attempt to place some parks or open space in every district
 - Attempt to split the North Apple Valley Industrial Specific Plan (NAVISP) so a single council member is not responsible for the entire area
- Cohesiveness, Contiguity, Integrity, and Compactness of Territory
 - Accept that it will be natural for there to be a wide variation in district size due to lack of density in various parts of Town
 - Do not prioritize trying to make districts the same size in area terms

Maps Prepared

The Town's demographic consultant has prepared three maps for review and comment. These maps are attached hereto and are referred to as: the Purple Map; the Tan Map; and the Green Map. All three maps include an acceptable level of population deviation among the districts. The demographic information for the proposed districts is attached along with the maps. Each of the proposed maps respects the requests of the Town Council to: (1) divide districts, where possible, using major roadways; (2) to divide the NAVISP between districts; (3) to provide each district with some commercial property; and (4) to provide each district with some open space or parkland.

Sequence of Elections

Under each map scenario, staff anticipates that the sequence of the elections would be as follows: Districts 1 and 2 would be subject to an election in November 2020; and Districts 3, 4, and 5 would be subject to an election in November 2022. The maps and scheduling may be altered as a result of the public hearing process.

Next Steps

This is the first of two mandatory public hearings to receive input regarding the content of the draft map or maps and the proposed sequence of elections. The second will be held on June 11. In addition, the Town plans to schedule an additional public workshop in the coming weeks to provide the public with a less formal environment in which to

provide comments. Following the conclusion of the public hearing on June 11, the Town Council will be asked to provide staff with direction regarding which map to use for the preparation of an ordinance to formally transition from an at large to a by district election system.

FISCAL IMPACT

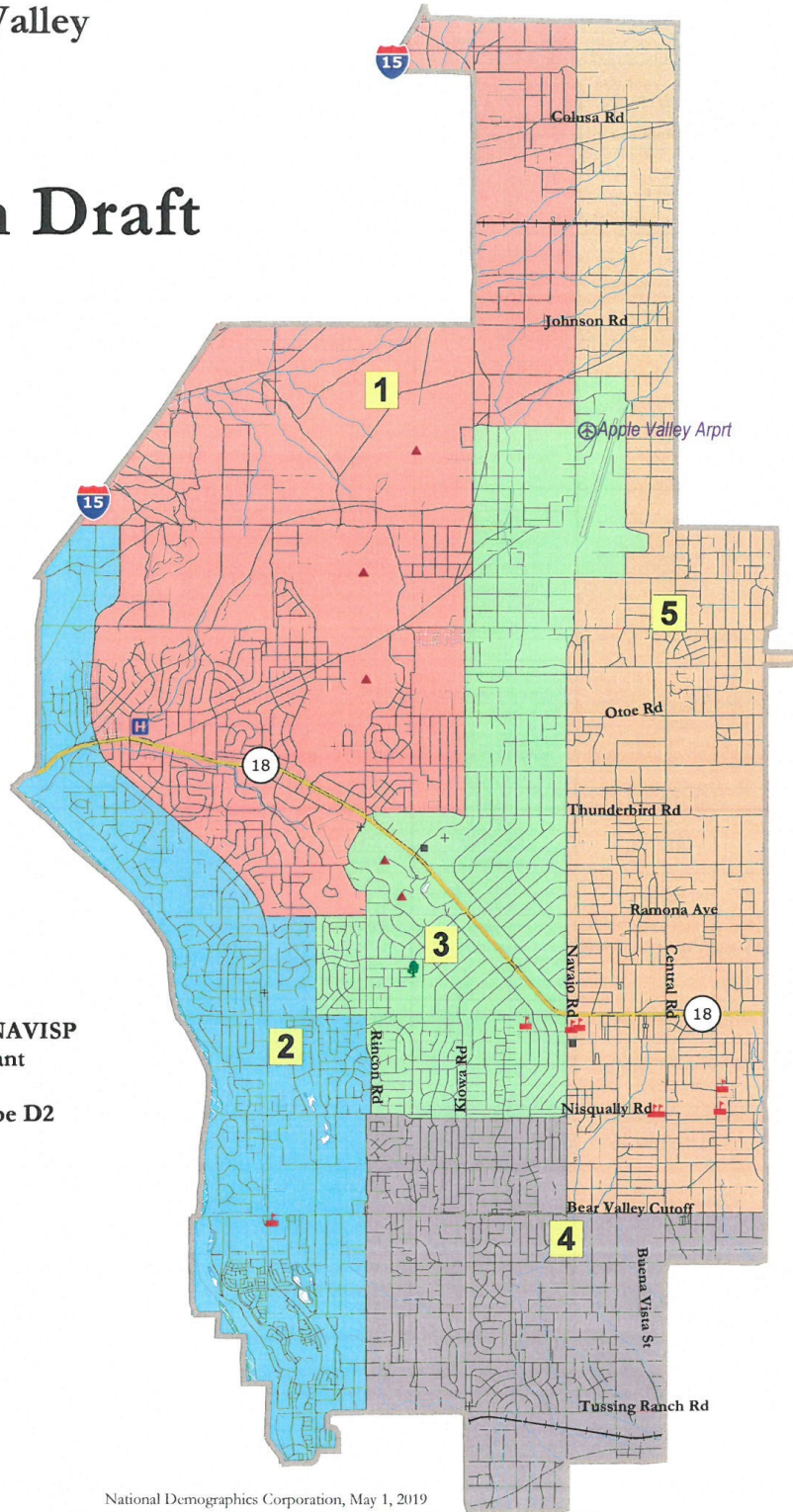
None associated with the public hearing.

Attachments:

1. Purple Map and Demographics
2. Tan Map and Demographics
3. Green Map and Demographics

Town of Apple Valley
2019 Districting

Green Draft



Follows major roads.
Areas 1, 3 and 5 split up NAVISP
Each district has significant commercial territory.
Each district except maybe D2 has open space.

Town of Apple Valley - Green Draft							
District		1	2	3	4	5	Total
Ideal	Total Pop	13,969	13,611	13,949	13,961	13,645	69,135
	Deviation from ideal	142	-216	122	134	-182	358
13,827	% Deviation	1.03%	-1.56%	0.88%	0.97%	-1.32%	2.59%
	% Hisp	28%	20%	29%	35%	35%	29%
Total Pop	% NH White	53%	65%	54%	51%	54%	56%
	% NH Black	12%	7%	11%	9%	7%	9%
	% Asian-American	3%	6%	3%	3%	2%	3%
	Total	10,459	11,471	10,174	9,072	9,206	50,382
Citizen Voting Age Pop	% Hisp	21%	18%	23%	22%	27%	22%
	% NH White	60%	70%	64%	66%	58%	64%
	% NH Black	15%	5%	9%	7%	11%	9%
	% Asian/Pac.Isl.	2%	6%	3%	4%	3%	4%
	Total	7,284	9,078	7,134	6,392	6,164	36,052
Voter Registration (Nov 2014)	% Latino est.	18%	14%	20%	24%	22%	19%
	% Spanish-Surnamed	16%	13%	18%	22%	20%	17%
	% Asian-Surnamed	1%	1%	1%	1%	0%	1%
	% Filipino-Surnamed	69%	78%	70%	66%	67%	71%
	% NH White est.	11%	5%	9%	8%	10%	8%
	% NH Black	16%	13%	18%	22%	20%	17%
Voter Turnout (Nov 2014)	Total	3,059	4,790	2,881	2,256	2,166	15,152
	% Latino est.	73%	43%	81%	90%	114%	73%
	% Spanish-Surnamed	11%	8%	11%	15%	12%	11%
	% Asian-Surnamed	1%	1%	1%	1%	0%	1%
	% Filipino-Surnamed	1%	1%	1%	1%	0%	1%
	% NH White est.	76%	83%	77%	72%	74%	78%
	% NH Black	10%	6%	9%	9%	11%	8%
Voter Turnout (Nov 2012)	Total	3,059	4,790	2,881	2,256	2,166	15,152
	% Latino est.	13%	9%	13%	17%	14%	12%
	% Spanish-Surnamed	11%	8%	11%	15%	12%	11%
	% Asian-Surnamed	1%	1%	1%	1%	0%	1%
	% Filipino-Surnamed	1%	1%	1%	1%	0%	1%
	% NH White est.	76%	83%	77%	72%	74%	78%
% NH Black est.	10%	6%	9%	9%	11%	8%	
ACS Pop. Est.	Total	13,829	14,582	14,125	13,859	13,887	70,282
Age	age0-19	27%	25%	28%	29%	30%	28%
	age20-60	52%	44%	53%	50%	53%	50%
	age60plus	20%	31%	19%	22%	17%	22%
Immigration	immigrants	6%	11%	8%	7%	9%	8%
	naturalized	51%	68%	70%	64%	40%	59%
Language spoken at home	english	86%	85%	87%	86%	81%	85%
	spanish	11%	9%	10%	11%	17%	12%
	asian-lang	1%	4%	1%	1%	1%	2%
	other lang	2%	2%	2%	1%	1%	2%
Language Fluency	Speaks Eng. "Less than Very Well"	3%	6%	3%	3%	6%	4%
Education (among those age 25+)	hs-grad	70%	68%	69%	70%	74%	70%
	bachelor	9%	12%	10%	8%	5%	9%
	graduatedegree	8%	11%	8%	5%	3%	7%
Child in Household	child-under18	31%	25%	35%	33%	34%	31%
Pct of Pop. Age 16+	employed	46%	42%	45%	43%	47%	44%
Household Income	income 0-25k	32%	20%	26%	30%	29%	27%
	income 25-50k	20%	24%	19%	26%	33%	24%
	income 50-75k	17%	19%	20%	19%	14%	18%
	income 75-200k	26%	31%	31%	23%	22%	27%
	income 200k-plus	4%	5%	4%	2%	2%	3%
Housing Stats	single family	68%	92%	86%	88%	92%	0%
	multi-family	32%	8%	14%	12%	8%	0%
	rented	41%	24%	32%	34%	36%	33%
	owned	59%	76%	68%	66%	64%	67%

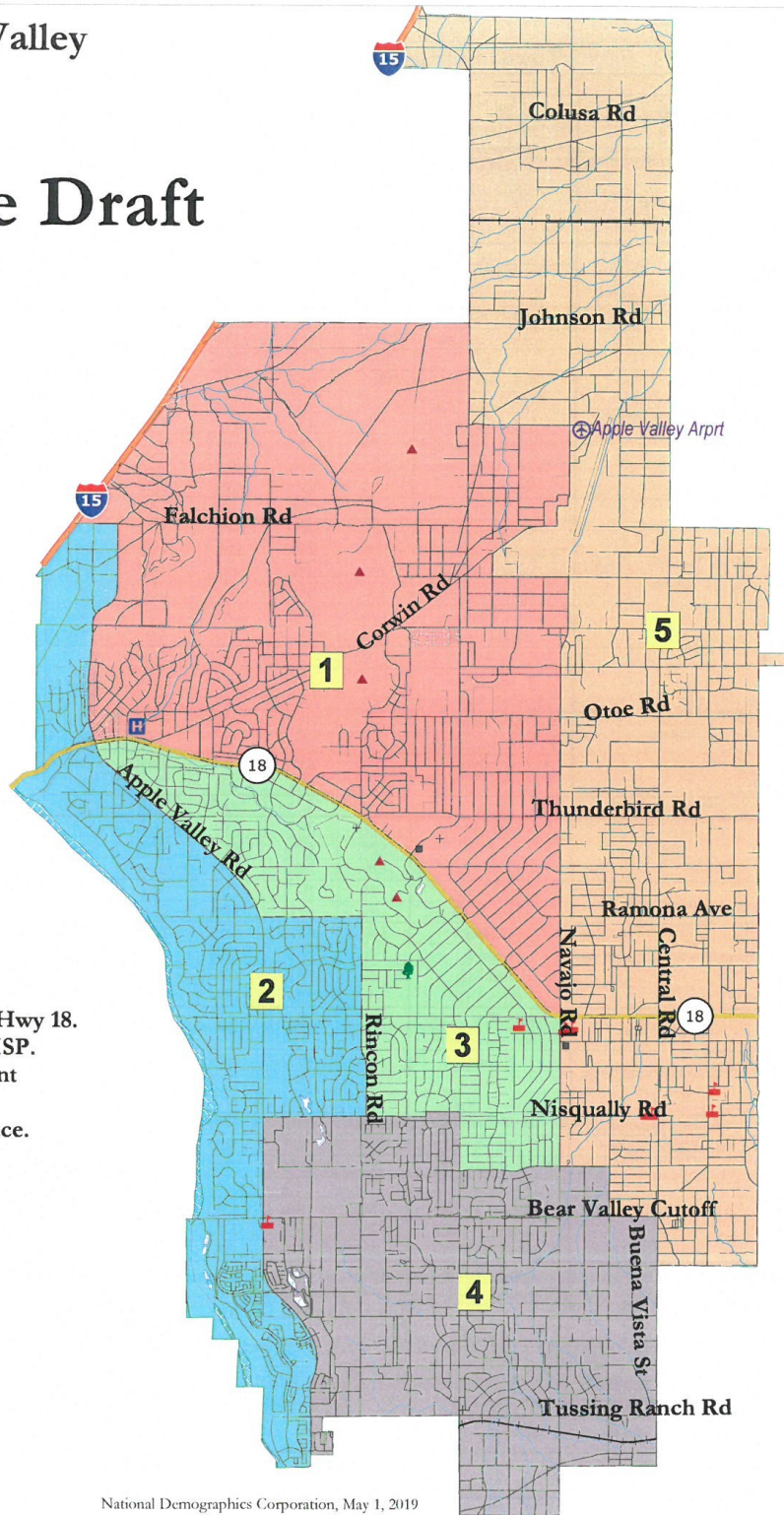
Total population data from the 2010 Decennial Census.

Surname-based Voter Registration and Turnout data from the California Statewide Database.

Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2012-2016 American Community Survey and Special Tabulation 5-year data.

Town of Apple Valley
2019 Districting

Purple Draft



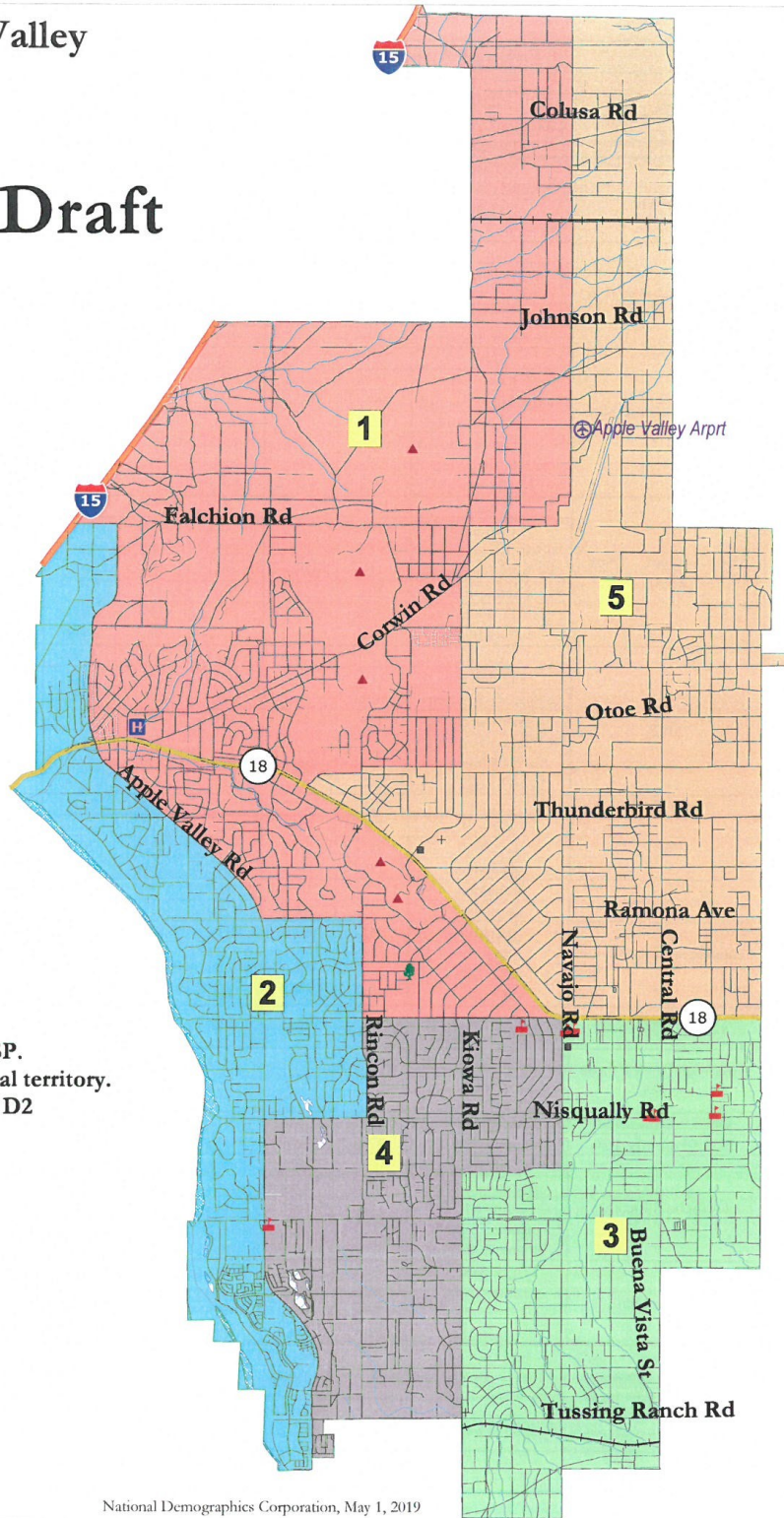
Follows major roads incl. Hwy 18.
Areas 1 and 5 divide NAVISP.
Each district has significant commercial territory.
Each district has open space.

National Demographics Corporation, May 1, 2019

Town of Apple Valley - Purple Draft							
District		1	2	3	4	5	Total
Ideal	Total Pop	13,773	13,616	14,450	13,608	13,688	69,135
	Deviation from ideal	-54	-211	623	-219	-139	842
13,827	% Deviation	-0.39%	-1.53%	4.51%	-1.58%	-1.01%	6.09%
	% Hisp	28%	19%	31%	34%	34%	29%
Total Pop	% NH White	53%	67%	53%	51%	54%	56%
	% NH Black	13%	7%	11%	9%	8%	9%
	% Asian-American	3%	5%	3%	3%	2%	3%
	Total	9,592	11,780	10,967	8,790	9,253	50,382
Citizen Voting Age Pop	% Hisp	22%	18%	23%	23%	26%	22%
	% NH White	59%	71%	64%	65%	58%	64%
	% NH Black	14%	6%	9%	7%	11%	9%
	% Asian/Pac.Isl.	2%	5%	3%	5%	3%	4%
	Total	6,961	9,393	7,227	6,308	6,163	36,052
Voter Registration (Nov 2014)	% Latino est.	18%	14%	21%	23%	22%	19%
	% Spanish-Surnamed	17%	13%	18%	21%	20%	17%
	% Asian-Surnamed	1%	1%	1%	1%	0%	1%
	% Filipino-Surnamed	69%	78%	70%	66%	67%	71%
	% NH White est.	11%	6%	8%	8%	10%	8%
	% NH Black	17%	13%	18%	21%	20%	17%
	Total	2,789	4,989	2,911	2,287	2,176	15,152
Voter Turnout (Nov 2014)	% Latino est.	76%	41%	86%	87%	112%	73%
	% Spanish-Surnamed	12%	8%	12%	15%	12%	11%
	% Asian-Surnamed	1%	1%	1%	1%	0%	1%
	% Filipino-Surnamed	1%	1%	0%	1%	0%	1%
	% NH White est.	75%	83%	77%	72%	74%	78%
	% NH Black	10%	6%	8%	9%	11%	8%
Voter Turnout (Nov 2012)	Total	2,789	4,989	2,911	2,287	2,176	15,152
	% Latino est.	13%	9%	13%	16%	13%	12%
	% Spanish-Surnamed	12%	8%	12%	15%	12%	11%
	% Asian-Surnamed	1%	1%	1%	1%	0%	1%
	% Filipino-Surnamed	1%	1%	0%	1%	0%	1%
	% NH White est.	75%	83%	77%	72%	74%	78%
% NH Black est.	10%	6%	8%	9%	11%	8%	
ACS Pop. Est.	Total	13,567	14,544	14,683	13,587	13,901	70,282
Age	age0-19	30%	25%	28%	26%	30%	28%
	age20-60	52%	46%	53%	47%	54%	50%
	age60plus	17%	29%	19%	27%	17%	22%
Immigration	immigrants	7%	10%	7%	8%	9%	8%
	naturalized	48%	69%	73%	63%	40%	59%
Language spoken at home	english	84%	86%	88%	86%	82%	85%
	spanish	14%	9%	9%	11%	17%	12%
	asian-lang	1%	4%	1%	2%	1%	2%
	other lang	1%	2%	2%	1%	1%	2%
Language Fluency	Speaks Eng. "Less than Very Well"	5%	5%	2%	4%	6%	4%
Education (among those age 25+)	hs-grad	72%	67%	69%	70%	74%	70%
	bachelor	7%	13%	11%	9%	5%	9%
	graduatedegree	6%	11%	9%	6%	3%	7%
Child in Household	child-under18	34%	26%	34%	29%	34%	31%
Pct of Pop. Age 16+	employed	43%	44%	48%	41%	47%	44%
	income 0-25k	35%	19%	26%	29%	28%	27%
	income 25-50k	24%	22%	16%	27%	33%	24%
	income 50-75k	17%	19%	19%	19%	14%	18%
	income 75-200k	22%	33%	33%	23%	23%	27%
Household Income	income 200k-plus	2%	6%	5%	2%	2%	3%
	single family	69%	92%	82%	91%	92%	0%
	multi-family	31%	8%	18%	9%	8%	0%
	rented	42%	24%	34%	31%	35%	33%
	owned	58%	76%	66%	69%	65%	67%
Total population data from the 2010 Decennial Census.							
Surname-based Voter Registration and Turnout data from the California Statewide Database.							
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2012-2016 American Community Survey and Special Tabulation 5-year data.							

Town of Apple Valley
2019 Districting

Tan Draft



Follows major roads.
Areas 1 and 5 divide NAVISP.
Each district has commercial territory.
Each district except maybe D2
has open space.

National Demographics Corporation, May 1, 2019

Town of Apple Valley - Tan Draft							
District		1	2	3	4	5	Total
Ideal	Total Pop	14,116	13,616	13,729	13,851	13,823	69,135
	Deviation from ideal	289	-211	-98	24	-4	500
13,827	% Deviation	2.09%	-1.53%	-0.71%	0.17%	-0.03%	3.62%
	% Hisp	26%	19%	37%	32%	31%	29%
Total Pop	% NH White	59%	67%	50%	50%	53%	56%
	% NH Black	10%	7%	8%	11%	11%	9%
	% Asian-American	3%	5%	2%	4%	2%	3%
	Total	11,205	11,780	9,075	9,161	9,161	50,382
Citizen Voting Age Pop	% Hisp	20%	18%	25%	26%	23%	22%
	% NH White	63%	71%	63%	60%	60%	64%
	% NH Black	12%	6%	9%	7%	12%	9%
	% Asian/Pac.Isl.	2%	5%	3%	6%	2%	4%
	Total	7,810	9,393	5,841	6,526	6,482	36,052
Voter Registration (Nov 2014)	% Latino est.	17%	14%	25%	23%	20%	19%
	% Spanish-Surnamed	15%	13%	23%	20%	18%	17%
	% Asian-Surnamed	1%	1%	1%	1%	1%	1%
	% Filipino-Surnamed	72%	78%	64%	66%	69%	71%
	% NH White est.	9%	6%	10%	9%	10%	8%
	% NH Black	15%	13%	23%	20%	18%	17%
	Total	3,470	4,989	1,844	2,461	2,388	15,152
Voter Turnout (Nov 2014)	% Latino est.	65%	41%	123%	97%	89%	73%
	% Spanish-Surnamed	10%	8%	16%	14%	11%	11%
	% Asian-Surnamed	1%	1%	1%	2%	0%	1%
	% Filipino-Surnamed	1%	1%	0%	1%	1%	1%
	% NH White est.	78%	83%	70%	73%	76%	78%
	% NH Black	9%	6%	10%	9%	10%	8%
	Total	3,470	4,989	1,844	2,461	2,388	15,152
Voter Turnout (Nov 2012)	% Latino est.	12%	9%	18%	15%	13%	12%
	% Spanish-Surnamed	10%	8%	16%	14%	11%	11%
	% Asian-Surnamed	1%	1%	1%	2%	0%	1%
	% Filipino-Surnamed	1%	1%	0%	1%	1%	1%
	% NH White est.	78%	83%	70%	73%	76%	78%
	% NH Black est.	9%	6%	10%	9%	10%	8%
	Total	14,097	14,544	13,672	14,059	13,910	70,282
ACS Pop. Est.	Total	14,097	14,544	13,672	14,059	13,910	70,282
	age0-19	25%	25%	30%	29%	30%	28%
	age20-60	53%	46%	51%	48%	54%	50%
Age	age60plus	22%	29%	18%	23%	16%	22%
	immigrants	6%	10%	8%	9%	7%	8%
	naturalized	59%	69%	41%	69%	51%	59%
Immigration	english	88%	86%	81%	85%	86%	85%
	spanish	9%	9%	17%	11%	12%	12%
	asian-lang	1%	4%	1%	2%	0%	2%
	other lang	2%	2%	1%	2%	1%	2%
Language spoken at home	Speaks Eng. "Less than Very Well"	3%	5%	5%	4%	5%	4%
	hs-grad	69%	67%	71%	71%	74%	70%
Language Fluency	bachelor	10%	13%	5%	9%	7%	9%
	graduatedegree	10%	11%	2%	9%	4%	7%
	child-under18	29%	26%	34%	33%	35%	31%
Education (among those age 25+)	child-under18	29%	26%	34%	33%	35%	31%
Child in Household	employed	47%	44%	44%	43%	44%	44%
	income 0-25k	28%	19%	39%	27%	25%	27%
	income 25-50k	19%	22%	31%	23%	28%	24%
	income 50-75k	18%	19%	16%	18%	19%	18%
	income 75-200k	30%	33%	14%	29%	27%	27%
	income 200k-plus	6%	6%	0%	3%	2%	3%
Pct of Pop. Age 16+	single family	74%	92%	88%	82%	89%	0%
	multi-family	26%	8%	12%	18%	11%	0%
	rented	36%	24%	42%	36%	30%	33%
	owncd	64%	76%	58%	64%	70%	67%
	Housing Stats	owncd	64%	76%	58%	64%	70%

Total population data from the 2010 Decennial Census.

Surname-based Voter Registration and Turnout data from the California Statewide Database.

Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2012-2016 American Community Survey and Special Tabulation 5-year data.