

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

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**DATE: APRIL 6, 2011**

**FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer**

**TO: LOCAL AGENCY FORMATION COMMISSION**

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**SUBJECT: AGENDA ITEM #6 – LAFCO 3163 – REORGANIZATION TO INCLUDE ANNEXATION TO THE TOWN OF APPLE VALLEY AND DETACHMENT FROM COUNTY SERVICE AREA 70 (ANNEXATION NO. 2008-002)**

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**INITIATED BY:**

Town Council Resolution, Town of Apple Valley

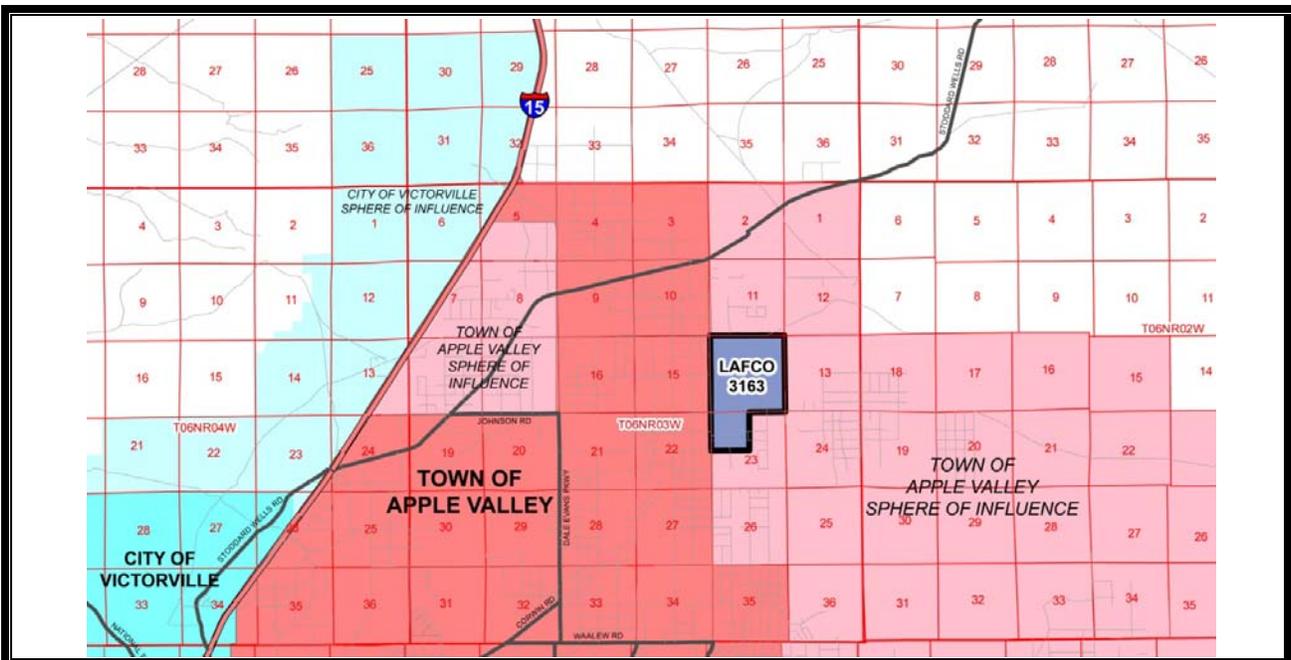
**RECOMMENDATION:**

1. Take the following actions with respect to the environmental review for LAFCO 3163:
  - a) Certify that the Final Environmental Impact Report (FEIR) (State Clearinghouse No. 2008091077) adopted by the Town of Apple Valley for the Apple Valley General Plan Update and the pre-zoning for Annexations 2008-001 and 2008-002 has been independently reviewed and considered by the Commission, its staff, and Environmental Consultant;
  - b) Determine that the FEIR is adequate for the Commission's use as a CEQA Responsible Agency for its consideration of LAFCO 3163;
  - c) Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; that the mitigation measures identified in the Town's environmental documents are the responsibility of the Town and others, not the Commission;

- d) Adopt the Candidate Findings of Fact and Statement of Overriding Considerations as presented by the Commission’s Environmental Consultant; and,
  - e) Direct the Executive Office to file a Notice of Determination within five (5) 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.
2. Approve LAFCO 3163 with the standard conditions of approval, which include the “hold harmless” clause for potential litigation costs, continuation of fees, charges, assessments and the identification that the transfer of utility accounts will occur within 90 days of the recording of the Certificate of Completion; and,
3. Adopt LAFCO Resolution #3135, setting forth the Commission’s findings, determinations, and conditions of approval concerning this proposal.

**BACKGROUND:**

The Town of Apple Valley has submitted an application which proposes to annex approximately 805 +/- acres. The study area is generally located on the east side of Central Road (existing Town boundary), south of Quarry Road, west of a combination of Johnson Road and parcels lines, and north of the natural extension of Lafayette Street, within the Town’s northeastern sphere of influence. The area is contiguous to existing City boundaries along its western edge. Location and vicinity maps are included as Attachment #1 to this report.



The Town's purposes in submitting this reorganization, as outlined in its application (included as a part of Attachment #2) and resolution of initiation are as follows:

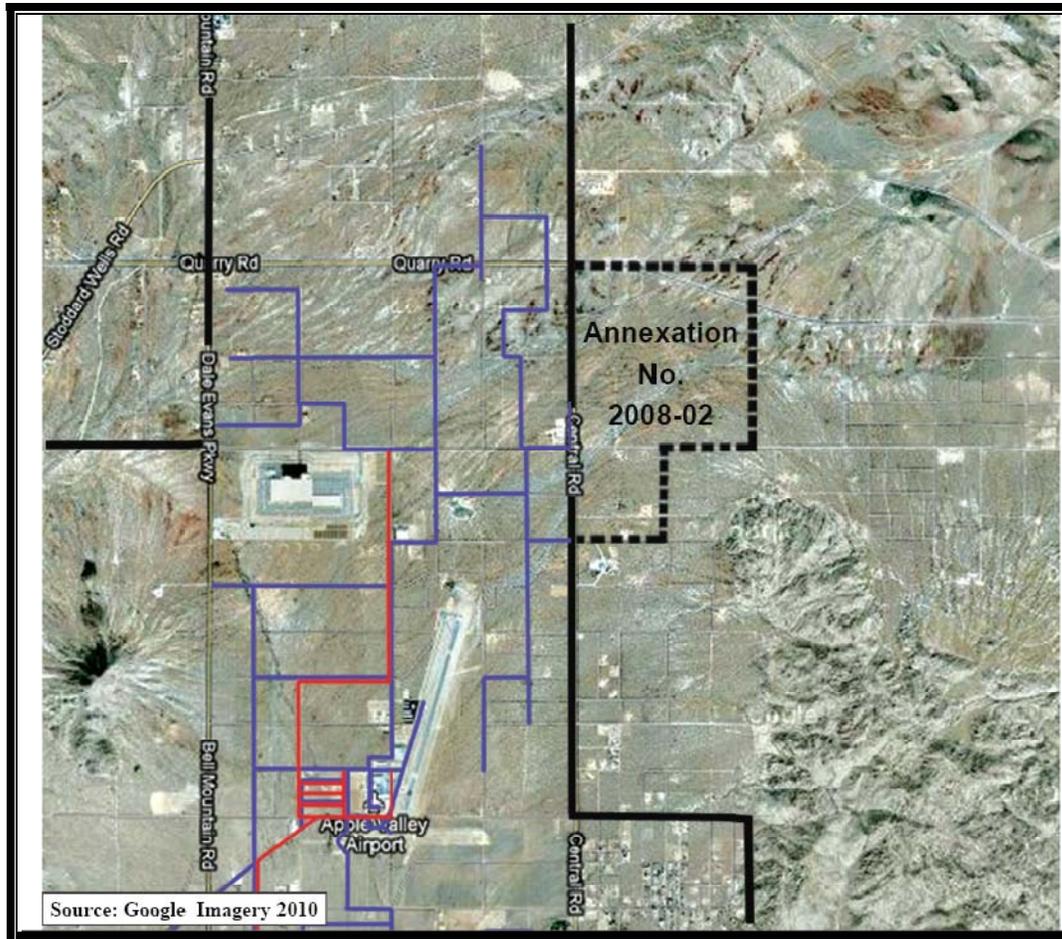
1. The proposed reorganization is immediately adjacent to the existing North Apple Valley Industrial Specific Plan (NAVISP) adopted by the Town. Landowners within the area have expressed an interest in being included in the Specific Plan to allow for expanded industrial uses for their property; and,
2. The Town considers this area to be a part of its long term economic development strategy to expand the jobs base for the region.
3. The annexation will bring the planning, design, and construction of future development, including public roads, under the jurisdiction and direction of one entity and provide for the control, orderly development and logical growth in accordance with the Town General Plan.

The narrative which follows addresses the four factors required for Commission consideration of a jurisdictional change – boundaries, land uses, service delivery and the effect on other local governments, and environmental considerations.

**BOUNDARIES:**

The area proposed for annexation is primarily vacant with some ancillary uses associated with the Black Mountain quarry operations located to the northeast and a single residence along Johnson Road. The study area is surrounded by vacant lands to the north and east within the unincorporated area, a mix of a low density residential units and vacant land to the south within unincorporated area; and industrial and airport lands to the west within the corporate limits of the Town of Apple Valley.

In reference to the boundaries of the proposed annexation, the easterly boundary utilizes parcel lines as its definition, with the balance of the boundary, north, south and west set at the centerline of existing roadways. The use of such lines of assessment as a boundary has the potential to cause confusion for response service providers – such as police, fire, and ambulance. Below is an aerial display of the reorganization's location in reference to existing Town boundaries.



**LAND USES:**

The reorganization area is currently primarily vacant land with some ancillary uses associated with the Black Mountain Quarry such as a haul road and a “quasi-industrial storage yard” and single residence located south of Johnson Road. The current County General Plan assigns the area land use designations of Regional Industrial, Community Industrial, Resource Conservation, and Rural Living. Under the County’s General Plan approximately 477 acres are designated for low density residential uses, accommodating approximately 398 units, with 324 +/- acres established with industrial designations.

The Town’s pre-zone designation for the entire study area is Planned Industrial. This land use designation allows for high quality, non-polluting industrial land uses, either as free-standing uses or as part of master planned industrial parks. Uses permitted include warehousing, light manufacturing, research and development, and administrative facilities. The minimum size for a Planned Industrial project site is five acres. Within the study area 801 +/- acres are envisioned to develop as industrial uses with the balance allocated



Sewage collection services can be readily extended to the reorganization area upon request of property owners anticipating development. A Town of Apple Valley regional interceptor line is approximately two miles west of the study area with a 12-inch sanitary sewer service line within one mile of the study area at the intersection of Johnson Road and Navajo Road. Through annexation, the Town of Apple Valley will become responsible for the wastewater collection system; treatment and disposal will be provided by the Victor Valley Wastewater Reclamation Authority (VWVRA) a joint powers entity.

- Water service is not currently provided within the study area. Water service is provided to the majority of the Town of Apple Valley through the Apple Valley Ranchos Water Company (hereafter shown as Apple Valley Ranchos), a privately-owned water utility governed by the California Public Utilities Commission (PUC). At present the study area is outside the certificated service area assigned Apple Valley Ranchos, thus it will require an expansion in order to provide service. The expansion process is required to be undertaken through the PUC prior to approval and/or proceeding with development of the area. The environmental documents for the project identify that Apple Valley Ranchos has sufficient access to water resources to support development through the planning horizon of 2025.
- 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 responsibilities will shift from the San Bernardino County Sheriff's Department to the Town of Apple Valley's contract with the Sheriff's Department. Local traffic control will transition from the California Highway Patrol to the Town's contract with the County Sheriff.

The Town has included a Fiscal Impact Analysis, as required by Commission policy, which outlines, on page 10, the Total Potential Costs/Revenues to the Town of Apple Valley, summarized on Table 3. The background material for Table 3 identifies a property tax transfer of 9.7% of the general ad valorem tax levy, an amount exceeding the current share for the Town of 9.437%. However, the property tax transfer resolution adopted by the County Board of Supervisors and the Town Council of the Town of Apple Valley transfers 7% of the general ad valorem property tax levy upon completion of the reorganization. This percentage transfer is according to the policy adopted by the County Board of Supervisors on September 3, 2003 to guarantee a minimum level of funding upon annexation. This is a \$24,612 reduction per year during the first phase of the development. However, it is staff's position that this shortfall would be covered by the receipt of property tax revenues during the first years

following annexation based upon the vacant nature of the territory, requiring minimal levels of service, until development occurs.

In conclusion, the Plan for Service along with the Financial Impact Analysis show the ability of the Town of Apple Valley to extend its services to the area upon need through future development and to maintain existing services at the time of reorganization due to the vacant nature of the territory.

**ENVIRONMENTAL CONSIDERATIONS:**

The Town of Apple Valley prepared a Final Environmental Impact Report (Final EIR) for the Town's General Plan Update and the pre-zoning for Annexations 2008-001 and 2008-002. LAFCO 3163 represents Annexation No. 2008-002. The Town's environmental assessment has been reviewed by the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates. Copies of these documents were forwarded to the Commission on March 31, 2011 for review. Mr. Dodson has determined that the Town's documents are adequate for Commission use and has indicated that the necessary environmental actions to be taken by the Commission, as a responsible agency under CEQA, are as follows:

- Determine that the certified Final EIR adopted by the Town of Apple Valley for the Apple Valley General Plan Update and the pre-zoning of Annexations 2008-001 and 2008-002, have been independently reviewed and considered by the Commission, its staff, and its Environmental Consultant;
- Determine that the Final EIR is adequate for the Commission's use as a CEQA Responsible Agency for its determinations related to LAFCO 3163;
- Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; and that the mitigation measures identified in the Town's environmental documents are the responsibility of the Town and others, not the Commission;
- Adopt the Candidate Findings of Fact and Statement of Overriding Considerations as presented by the Commission's Environmental Consultant, included as Attachment #3 to the staff report; and,
- Direct the Executive Officer to file the 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 Town, as lead agency, has paid said fees.

**CONCLUSION:**

The Town of Apple Valley has indicated three reasons for the proposed reorganization:

1. The proposed reorganization is immediately adjacent to the existing North Apple Valley Industrial Specific Plan (NAVISP) adopted by the Town. Landowners within the area have expressed an interest in being included in the Specific Plan to allow for expanded industrial uses for their property; and,
2. The Town considers this area to be a part of its long term economic development strategy to expand the jobs base for the region.
3. The annexation will bring the planning, design, and construction of future development, including public roads, under the jurisdiction and direction of one entity and provide for the control, orderly development and logical growth in accordance with the Town General Plan.

Staff supports approval of LAFCO 3163 as the reorganization area will benefit from the full range of municipal services available through the Town of Apple Valley upon future development. In addition, the reorganization will clearly identify the entity that landowners will need to work with to review any potential plans for development, infrastructure improvement, and development standards for the future. For all the reasons outlined in the report above, staff recommends approval of LAFCO 3163.

**FINDINGS:**

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

1. The Registrar of Voters Office has determined that the study area is legally uninhabited, containing two (2) registered voters as of March 22, 2011.
2. The County Assessor has determined that the assessed value of land and improvements within the annexation area is \$15,511,519 (land - \$15,294,585; improvements - \$216,934).
3. The area is within the sphere of influence assigned the Town of Apple Valley.
4. Commission review of this proposal has been advertised in *The Daily Press*, a newspaper of general circulation within the study 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 notices to landowners and registered voters within the annexation area (totaling 45 notices), and to landowners and registered voters surrounding the study area (totaling 140 notices) in accordance with State law and adopted Commission policies. To date, no comments or protest have been received regarding the proposal.
6. The Town of Apple Valley has pre-zoned the study area Planned Industrial. This land use designation allows for high quality, non-polluting industrial land uses, either as free-standing uses or as part of master planned industrial parks. Uses permitted include warehousing, light manufacturing, research and development, and administrative facilities. The minimum size for a Planned Industrial project site is five acres. This zoning designation conforms to the adopted General Plan for the Town of Apple Valley and is consistent with surrounding land uses within the Town. Pursuant to the provisions of Government Code Section 56375(e), this zoning designation shall remain in effect for at least two years following annexation unless specific actions are taken by the Town Council.
7. The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed the Town of Apple Valley's FEIR, and Statement of Overriding Considerations prepared for the Town of Apple Valley General Plan Update and pre-zoning for Annexations 2008-001 and 2008-002. Mr. Dodson has determined that these documents taken together are adequate for the Commission's review of the proposed annexation as a responsible agency. Copies of the Town's environmental documents were forwarded to Commission members on March 31, 2011. The necessary actions to be taken by the Commission, as a responsible agency, are outlined in the narrative portion of this report.
8. The area in question is presently served by the following local agencies:

County of San Bernardino  
Apple Valley Fire Protection District  
Mojave Water Agency  
Mojave Desert Resource Conservation District  
County Service Area 60 (Apple Valley Airport)  
County Service Area 70 (multi-function unincorporated area  
Countywide)

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 through an adjustment in their boundaries as they are regional in nature.

9. 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. These plans 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.
10. 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.
11. The reorganization area can benefit from the availability and extension of municipal services from the Town of Apple Valley upon future development.
12. This proposal will not assist the Town's ability to achieve its fair share of the regional housing needs as the land use designation is for industrial development. However, the Town of Apple Valley application materials indicate that there are sufficient lands available elsewhere within the Town and/or its sphere of influence to accommodate its RHNA allocation as demonstrated in the Town's adopted Housing Element.
13. With respect to environmental justice, the proposed reorganization will not result in the unfair treatment of any person based upon race, culture, or income.
14. 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.
15. 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. [Vicinity Maps](#) and [Annexation Area Map](#)

2. [Town of Apple Valley Application, Plan for Services, and Financial Impact Analysis](#)
3. [Response from Commission’s Environmental Consultant, Tom Dodson of Tom Dodson and Associates, including Candidate Findings of Fact and Statement of Overriding Considerations](#)
4. [Draft Resolution #3135](#)