

**PROPOSAL NO.: LAFCO 3163**

**HEARING DATE: APRIL 21, 2011**

**RESOLUTION NO. 3135**

**A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3163 AND APPROVING THE REORGANIZATION TO INCLUDE ANNEXATION TO THE TOWN OF APPLE VALLEY AND DETACHMENT FROM COUNTY SERVICE AREA 70 (ANNEXATION NO 2008-002).** (The reorganization area encompasses approximately 805 acres, generally bordered by Quarry Road on the north, a combination of parcel lines and Johnson Road on the east, Lafayette Street on the south, and Central Road (existing Town of Apple Valley Boundary) on the west. The study area is generally located in the northeastern Town of Apple Valley sphere area.)

**On motion of Commissioner \_\_\_\_\_, duly seconded by Commissioner \_\_\_\_\_, and carried, the Local Agency Formation Commission adopts the following resolution:**

**WHEREAS**, an application for the proposed reorganization in the County of San Bernardino was filed with the Executive Officer of this Local Agency Formation Commission (hereinafter referred to as "the Commission") in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.), and the Executive Officer has examined the application and executed her certificate in accordance with law, determining and certifying that the filings are sufficient; and,

**WHEREAS**, at the times and in the form and manner provided by law, the Executive Officer has given notice of the public hearing by the Commission on this matter; and,

**WHEREAS**, the Executive Officer has reviewed available information and prepared a report including her recommendations thereon, the filings and report and related information having been presented to and considered by this Commission; and,

**WHEREAS**, the public hearing by this Commission was held upon the date and at the time and place specified in the notice of public hearing and in an order or orders continuing the hearing; and,

**WHEREAS**, at the hearing, this Commission heard and received all oral and written protests; the Commission considered all plans and proposed changes of organization, objections and evidence which were made, presented, or filed; it received evidence as to whether the territory is inhabited or uninhabited, improved or unimproved; and all persons present were given an opportunity to hear and be heard in respect to any matter relating to the application, in evidence presented at the hearing;

**NOW, THEREFORE, BE IT RESOLVED**, that the Commission does hereby determine, find, resolve, and order as follows:

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### **DETERMINATIONS:**

**SECTION 1.** The proposal is approved subject to the terms and conditions hereinafter specified:

#### **CONDITIONS:**

**Condition No. 1.** The boundaries are approved as set forth in Exhibits "A" and "A-1" attached.

**Condition No. 2.** The following distinctive short-form designation shall be used throughout this proceeding: LAFCO 3163.

**Condition No. 3.** All previously authorized charges, fees, assessments, and/or taxes currently in effect by the Town of Apple Valley (annexing agency) shall be assumed by the annexing territory in the same manner as provided in the original authorization pursuant to Government Code Section 56886(t).

**Condition No. 4.** The Town of Apple Valley shall indemnify, defend, and hold harmless the Commission from any legal expense, legal action, or judgment arising out of the Commission's approval of this proposal, including any reimbursement of legal fees and costs incurred by the Commission.

**Condition No. 5.** Pursuant to Government Code Section 56886.1, public utilities, as defined in Section 216 of the Public Utilities Code, have ninety (90) days following the recording of the Certificate of Completion to make the necessary changes to impacted utility customer accounts.

**Condition No. 6.** The date of issuance of the Certificate of Completion shall be the effective date of this reorganization.

**SECTION 2. FINDINGS.** The following findings are noted in conformance with Commission policy:

1. The Registrar of Voters Office has certified that the study area is legally uninhabited, 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) as of November 9, 2010.
3. The area is within the sphere of influence assigned the Town of Apple Valley.
4. Legal advertisement of the Commission's consideration has been provided through publication 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. All notices required by State law and local Commission policies have been provided. 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. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations. To date, no expression of concern or opposition has been received.

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6. The Town of Apple Valley has processed the pre-zoning of the study area assigning a land use designation of 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 Town of Apple Valley, as a function of its review for the General Plan Update, including Annexations No. 2008-001 and No. 2008-002 (SCH No. 2008091077) prepared an final environmental impact report (hereafter Final EIR) and Mitigation Monitoring Program which address environmental impacts from the annexation of the 805 +/- acre reorganization in accordance with General Plan designations. The Commission's Environmental Consultant and LAFCO staff have independently reviewed the Town's Final EIR and found them to be adequate for the Commission's use as a CEQA responsible agency.

The Commission certifies that it has reviewed and considered the Town's Final EIR and the environmental effects as outlined therein prior to reaching a decision on the project and finds the information substantiating the Final EIR is adequate for its use in making a decision as a CEQA responsible agency. The Commission hereby acknowledges the mitigation measures contained in the Town's Final EIR and finds that no additional feasible alternatives or mitigation measures will be adopted by the Commission. The Commission further finds that all changes, alterations and mitigation measures are within the responsibility and jurisdiction of the Town and/or other agencies and not the Commission; and finds that it is the responsibility of the Town to oversee and implement these measures and the mitigation monitoring plan.

The Commission hereby adopts the Candidate Findings of Fact and Statement of Overriding Considerations regarding the environmental effects of the reorganization, a copy of which is available for review in the LAFCO office. The Commission finds that all feasible changes or alterations have been incorporated into the project; that the changes are the responsibility of the Town and other agencies identified in the Candidate Findings of Fact and Statement of Overriding Considerations and the Final EIR; and that specific economic, social or other considerations make infeasible adoption of the alternatives identified in the Final EIR.

The Commission, as a responsible agency, notes that this proposal is exempt from further Department of Fish and Game fees because the filing fee was the responsibility of the Town, as the CEQA lead agency. The Commission directs its Executive Officer to file a Notice of Determination within five (5) working days with the San Bernardino County Clerk of the Board of Supervisors.

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.

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9. The Town of Apple Valley has submitted a plan for the provision of services as required by Government Code Section 56653, which indicates that the Town can, at a minimum, maintain the existing level of service delivery and can improve the level and range of selected services currently available in the area. Upon reorganization, the Town of Apple Valley will extend its services as required by the progression of development. The Fiscal Impact Analysis portion of the Plan for Service provides a general outline of the anticipated revenues/costs for the reorganization area. The Plan indicates that revenues are anticipated to be sufficient to provide the level of services identified through the Town based upon future development. The financial information presented within the Town's Plan for Service indicates that the extension of services can be maintained and operated within the existing revenue resources available through the transfer of property taxes and fees for service, with the update that the share of the general ad valorem property tax shall be 7%, rather than the 9.7% identified in the Fiscal Impact Analysis. The Plan for Service and Financial Impact Analysis have been reviewed and compared with the standards established by the Commission and the factors contained within Government Code Section 56668. The Commission finds that the Plan conform to those adopted standards and requirements.
10. The reorganization proposal complies with Commission policies and directives and State law 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 in the most efficient and effective service delivery system.
11. The reorganization area can benefit from the availability and extension of municipal services from the Town of Apple Valley upon future development, as evidenced by the Plan for Service.
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 benefit from the extension of services and facilities from the Town upon future development while, at the same time, 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 reorganization. This negotiated agreement 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.

**SECTION 3.** Approval by the Local Agency Formation Commission indicates that completion of this proposal would accomplish the proposed change of organization in a reasonable manner with a maximum chance of success and a minimum disruption of service to the functions of other local agencies in the area.

**SECTION 4.** The Executive Officer is hereby authorized and directed to mail certified copies of this resolution in the manner provided by Section 56882 of the Government Code.

**SECTION 5.** The Commission hereby directs that, following completion of the reconsideration period

