

EXHIBIT A

RESOLUTION NO. 07-27

**RESOLUTION OF THE
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY**

POLICY DETERMINATION

**ADOPTION OF EXTRATERRITORIAL WATER AND SEWER SERVICES FOR THE CITY OF
AMERICAN CANYON AND AREAWIDE AUTHORIZATION TO PROVIDE SERVICES**

WHEREAS, the Local Agency Formation Commission of Napa County, hereinafter referred to as “the Commission”, is directed under Government Code Section 56133 to regulate the provision of new and extended services by cities and special districts outside their jurisdictional boundaries; and

WHEREAS, the City of American Canyon, hereinafter referred to as “American Canyon,” serves as successor agency to the American Canyon County Water District and assumed at the time of its incorporation the exclusive right to provide water and sewer operations, including infrastructure and service arrangements, in certain areas of the unincorporated area that extend beyond its jurisdictional boundary; and

WHEREAS, the Commission has prepared studies evaluating the level and range of water and sewer services provided by American Canyon as part of the *Comprehensive Water Service Study* (2004) and the *Comprehensive Study of Sanitation and Wastewater Treatment Providers* (2006); and

WHEREAS, the Commission held public meetings on March 5, 2007 and October 1 and 15, 2007 to discuss the matter of Government Code Section 56133 as it relates to American Canyon; and

WHEREAS, the Commission desires to reconcile the provisions of Government Code Section 56133 with the water and sewer service operations assumed by American Canyon.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

1. The Commission adopts the extraterritorial water and sewer service area for American Canyon shown in Exhibits “A” and “B” (hereafter “ETSA”).
2. The Commission recognizes and designates American Canyon as the appropriate public water and sewer service provider within the ETSA.
3. The Commission determines that American Canyon has sufficient service capacities and administrative controls to provide an adequate level of water and sewer services within the ETSA.

4. The Commission determines that additional future connections to American Canyon's water and sewer systems within that portion of the ETSA composed of the Airport Industrial Area are not "new or extended services" under Government Code section 56133 because American Canyon, as the successor agency to the American Canyon County Water District, already was providing water and sewer services throughout this area on the effective date of Government Code section 56133 and because the additional connections will be only involve "infill" development, will not encourage urban sprawl, adversely affect open-space and prime agricultural lands, or encourage or result in the inefficient extension of governmental services.
5. American Canyon may not provide new or extended water and sewer services within the ETSA without prior written authorization by the Commission; provided, however, that the Airport Industrial Area is exempted from this requirement for the reasons set forth in subparagraph 4 above.
6. The sewer services to the ETSA set forth in Exhibit "B" shall not exceed the rights of services associated within the existing jurisdictional boundary of the Napa Sanitation District, which is shown in Exhibit "C."
7. The sewer services to the ETSA set forth in Exhibit "B" are further limited by the rights of sewer services associated with Napa Sanitation District's contractual arrangement to provide sewer and recycled water services to lands comprising the Chardonnay Golf Course and the Napa County Airport, which are shown in Exhibit "D."
8. As lead agency, the Commission finds the adoption of this policy determination is exempt from the California Environmental Quality Act under Title 14 of the California Code of Regulations §15320 (Class 20). This policy formalizes and reconstitutes American Canyon's organizational water and sewer service areas and practices in a manner with de minimis impacts to the service areas defined by the Commission.

The foregoing resolution was duly and regularly adopted by the Commission at a meeting held on the 15th day of October, 2007, by the following vote:

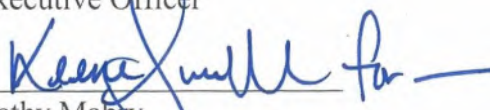
AYES: Commissioners DODD, KELLY, AND WAGENKNECHT

NOES: Commissioners INMAN AND GINGLES

ABSENT: Commissioners NONE

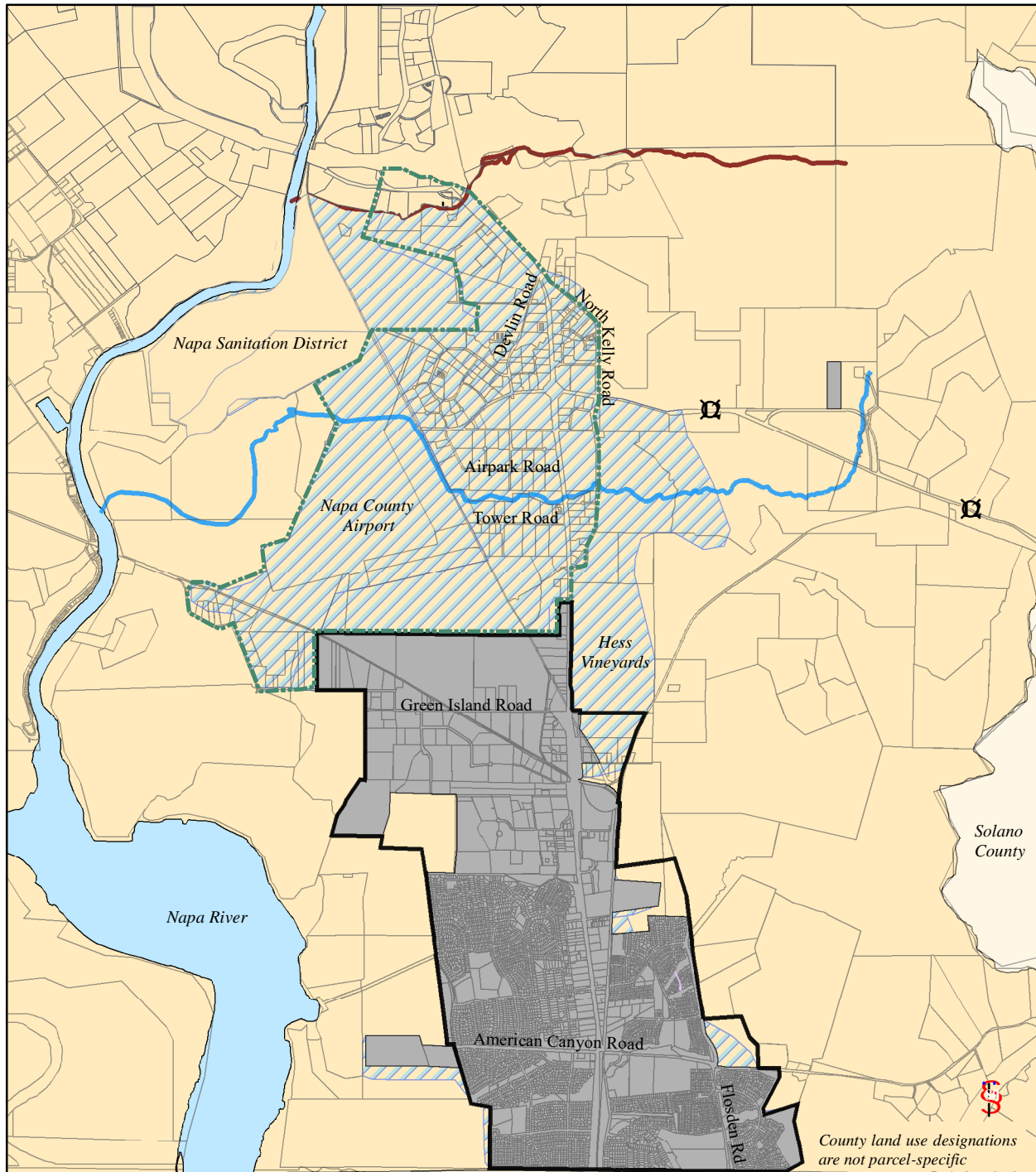
ABSTAIN: Commissioners NONE

ATTEST: Keene Simonds
Executive Officer

Recorded by: 
Kathy Mabry
Commission Secretary

City of American Canyon Extraterritorial Water Service Area

Attachment Six
EXHIBIT A



County land use designations are not parcel-specific

City of American Canyon's Extraterritorial Water Service Area

American Canyon's extraterritorial water service area generally includes all urban designated lands (County of Napa) located east of the Napa River and south of Soscol Ridge.

- City of American Canyon**
- City of American Canyon Sphere of Influence**
- Airport Industrial Area**
- Fagan Creek**
- Soscol Ridge (approximation)**



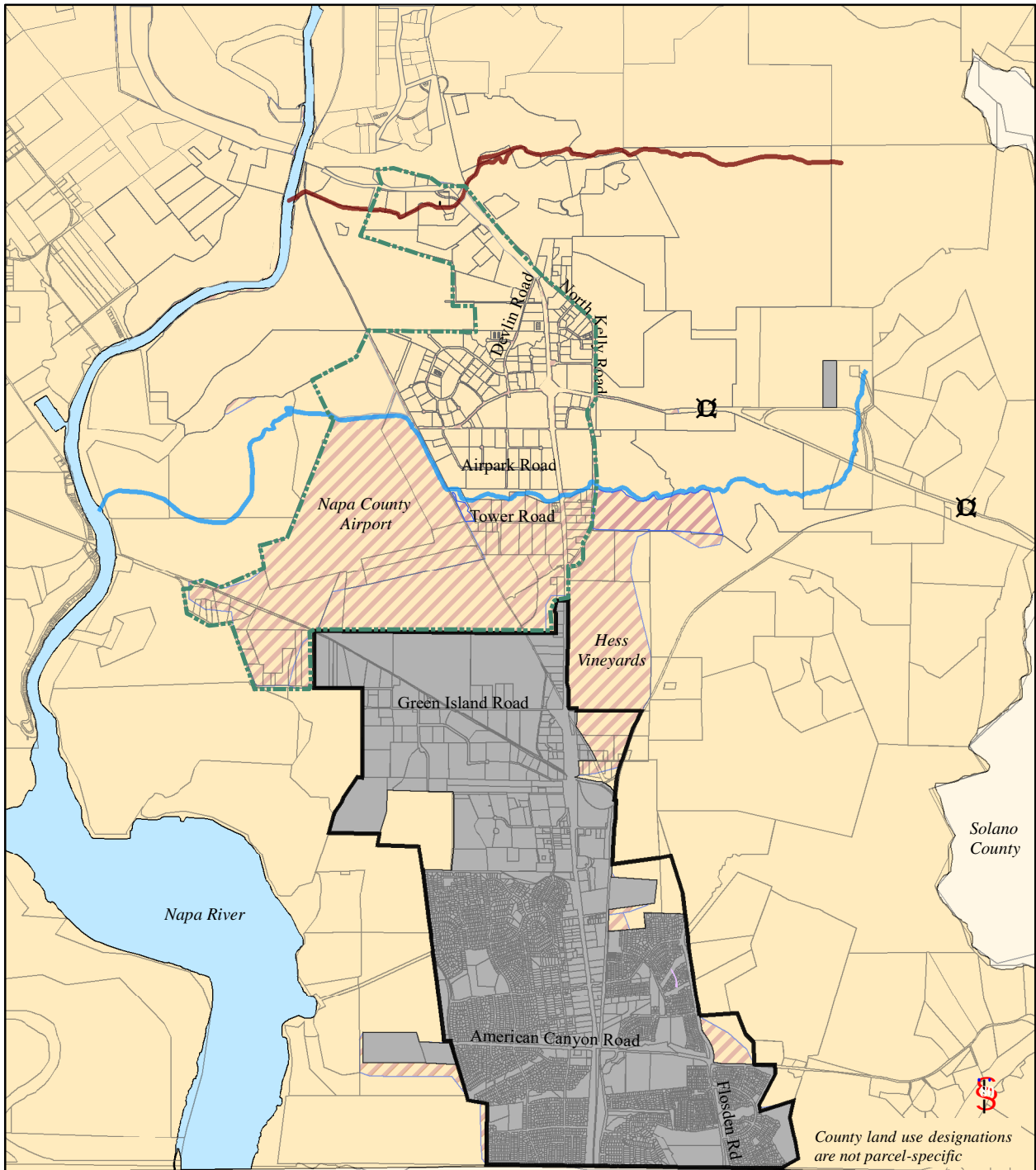
*Not to Scale
October 22, 2007
Prepared by KS*









LAFCO of Napa County
1700 Second Street, Suite 268
Napa, CA 94559
(707) 259-8645

City of American Canyon Extraterritorial Sewer Service Area

Attachment Six
EXHIBIT B



 **City of American Canyon's Extraterritorial Sewer Service Area**
 American Canyon's extraterritorial sewer service area includes all urban designated lands (County of Napa) located east of the Napa River and south of Fagan Creek.

-  **City of American Canyon**
-  **City of American Canyon Sphere of Influence**
-  **Airport Industrial Area**
-  **Fagan Creek**
-  **Soscol Ridge (approximation)**

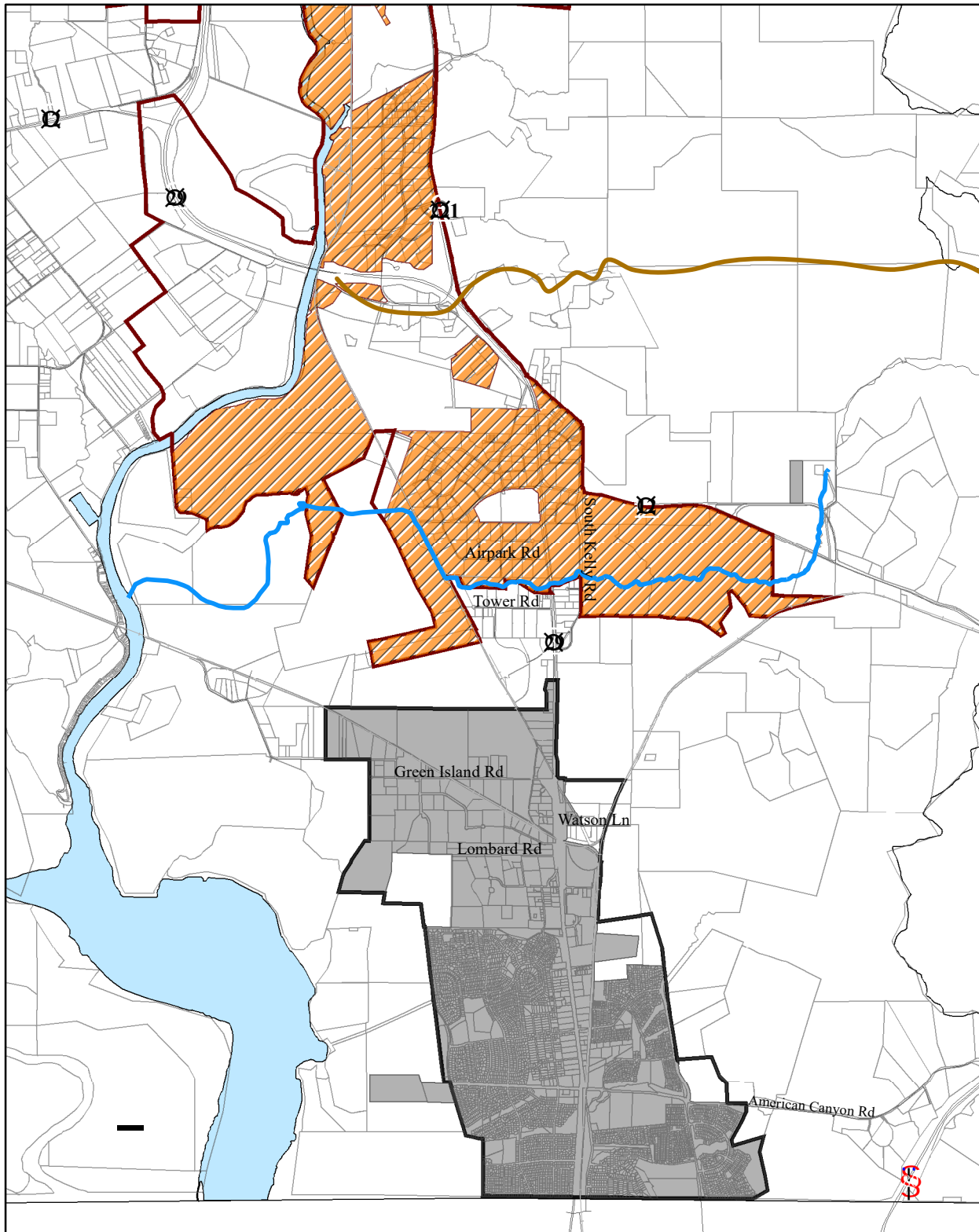


*Not to Scale
October 22, 2007
Prepared by KS*









LAFCO of Napa County
1700 Second Street, Suite 268
Napa, CA 94559
(707) 259-8645

City of American Canyon
Napa Sanitation District



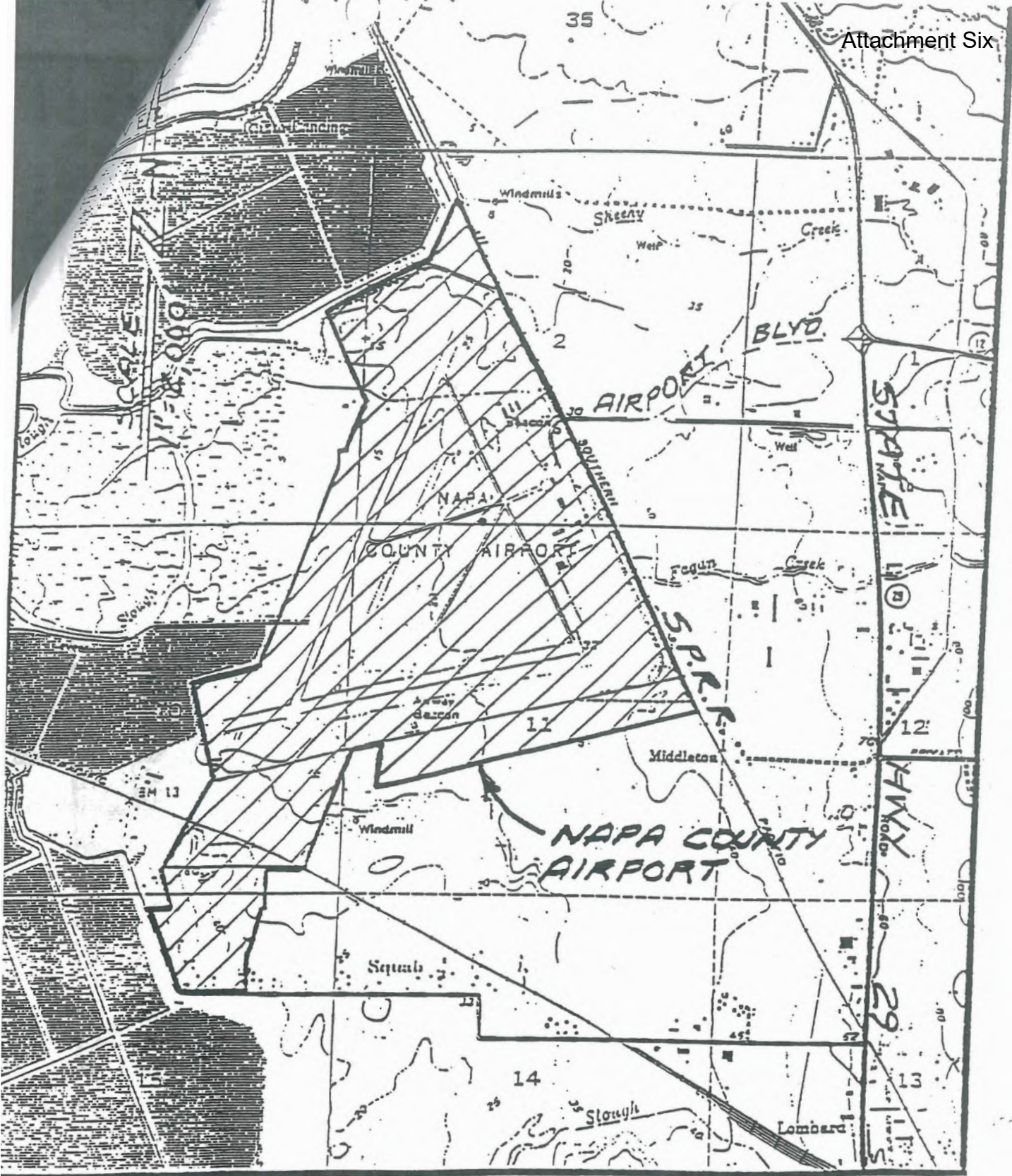
Legend

- | | | | |
|---|--|---|---|
|  | City of American Canyon |  | Napa Sanitation District |
|  | City of American Canyon Sphere of Influence |  | Napa Sanitation District Sphere of Influence |
|  | Fagan Creek | | |
|  | Socol Ridge (approximate location) | | |

*Not to Scale
February 2007
Prepared by KS*



LAFCO of Napa County
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Napa, CA 94559
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AIRPORT
FACILITIES MAP

EXHIBIT D-2

V-1

EXHIBIT B



Local Agency Formation Commission of Napa County
Subdivision of the State of California

Attachment Six

1030 Seminary Street, Suite B
Napa, California 94559
Phone: (707) 259-8645
Fax: (707) 251-1053
www.napa.lafco.ca.gov

We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

MEMORANDUM

TO: Dana Shigley, City of American Canyon City Manager
Jason Holley, City of American Canyon Public Works Director
Greg Baer, City of American Canyon Development Services Engineer

CC: Jackie Gong, LAFCO Counsel

FROM: Laura Snideman, Executive Officer

DATE: August 2014

SUBJECT: American Canyon Water Inquiries

Issue

The City of American Canyon (the “City”) recently inquired about the boundaries of the former American Canyon County Water District (the “District”) with the underlying question being what, if any, new water connections outside of the City limits require LAFCO authorization under California Government Code Section 56133 (“56133”).

Summary Response

The District boundaries were reduced to coincide with the newly incorporated City and through the merger of the District with the City no longer exist. Subsequent LAFCO actions have acknowledged “grandfathering” of service delivery outside of the City’s boundaries and within a specific geographic area referred to as the Airport Industrial Area as mapped and memorialized by the Commission in October 2007. All other new or extended water connections provided after January 1, 2001 outside of the City and outside of this area must be authorized by LAFCO in accordance with the provisions of 56133 and as re-confirmed by the Commission in October 2007.

Analysis

The City’s incorporation did not include the entirety of the land within the original District boundaries. This is because most, if not all, of the District’s lands outside of the City’s boundaries were formally detached from the District as part of the City’s incorporation process. This smaller District was then formally merged with the City as part of the incorporation process, legally terminating the existence of the District in accordance with California Government Code Section 56056. Therefore, the District and its former boundaries no longer exist.

Joan Bennett, Vice Chair
Councilmember, City of American Canyon

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Brian Kelly, Chair
Representative of the General Public

Greg Pitts, Commissioner
Councilmember, City of St. Helena

Bill Dodd, Commissioner
County of Napa Supervisor, 4th District

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Juliana Inman, Alternate Commissioner
Councilmember, City of Napa

Mark Luce, Alternate Commissioner
County of Napa Supervisor, 2nd District

Laura Snideman
Executive Officer

Due to older, less precise mapping techniques and multiple parcel splits over a long period of time resulting in a number of changes in both APNs and the actual parcel boundaries, it is impossible to precisely confirm what happened to some of the parcels in the vicinity of the Vintage Ranch Subdivision. Staff has undertaken a significant research effort sorting through a large variety of records in the LAFCO, Counsel, and County Assessor offices and additional research into these remaining parcels will not change the conclusions reached. Regardless of whether or not these specific parcels were detached from the District, the facts remain that we have clear City boundaries as of today and that the District no longer exists and the merger is deemed valid due to the expiration of the time to challenge it.

As to why these questions keep surfacing, I believe there may be confusion about past references to the District's former "service area" versus actual boundaries, and that the actual boundaries were far smaller than many perceived them to be. While various relatively recent documents contain written references to a very large service area, no formal LAFCO maps or documents could be found documenting this. In addition, and perhaps more to the point, the concept of a service area is not a legal concept under LAFCO law and what matters is that the District, whose jurisdictional boundaries at the time were relatively modest and made smaller in conjunction with the City's incorporation as described above, has officially ceased to exist.

Perhaps adding to the confusion was a prior contract between the District and the State requiring the District to serve a certain area. As the City inherited the duties of the District during the merger, one might ask what happened to that requirement. Even if the City has assumed the contractual obligation to serve a certain area and subsequent contracts have not superseded this clause, any new or extended service outside the City limits requires LAFCO authorization under 56133, unless a specific 56133 exception otherwise applies.

In response to prior questions about the City's provision of water services outside its boundaries, the Commission recognized and designated American Canyon as the appropriate public water provider for the extraterritorial area as defined by the Commission in October 2007 and subject to the terms and conditions it set. In recognizing the City as the appropriate provider for this area, the Commission required that any new or extended water services within the area must have the prior written authorization of LAFCO in conformance with 56133 with the grandfathered exception of the Airport Industrial Area, also as mapped in October 2007.

On May 3, 2011 the City held a meeting on water issues that included references to a "water service area." As this concept is not a legal concept under LAFCO law, we believe portions of the outcome of that meeting and, more specifically, portions of the adopted resolution were in error. Please endeavor to correct this information when the issue is raised again in future documents and meetings.

Request for Information

For record keeping purposes, as soon as feasible and no later than December 31, 2014, please provide a list of all parcels outside of the City limits currently receiving water from the City including the APN, property address, type & size of connection, and year service began (if service pre-dates the City's incorporation noting "as of incorporation" is sufficient.)

EXHIBIT C

CERTIFIED COPY

RESOLUTION NO. 91-18

RESOLUTION OF THE NAPA COUNTY
LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS

AMERICAN CANYON INCORPORATION

WHEREAS, a petition of the AMERICAN CANYON INCORPORATING COMMITTEE proposing a Reorganization of certain described territory was duly filed on February 13, 1990 with the Executive Officer of the Napa County Local Agency Formation Commission, hereafter referred to as "the Commission", together with supporting documents required by the rules and regulations of the Commission; and

WHEREAS, the Petition for Reorganization proposed to incorporate the Community of American Canyon as a general law city, the merger of the American Canyon County Water District into the new City, and the establishment of the American Canyon Fire Protection District as a subsidiary district of the new City, and is hereafter referred to as "the Proposal"; and,

WHEREAS, said proposal was filed with the Executive Officer in accordance with provisions of the Cortese/Knox Local Government Reorganization Act of 1985, as amended, (Title 5, Division 3, commencing with Section 56000 of the California Government Code), hereafter referred to as the "Cortese/Knox Act"; and,

WHEREAS, the American Canyon County Water District in its Resolution #601, dated May 8, 1990 requested the Commission to approve the proposal including the integration of existing governmental services into the new City; and

WHEREAS, the Commission pursuant to its adopted Incorporation Guidelines and procedures, held a public hearing on March 14, 1990 to establish the Proposal's scope of study; and

WHEREAS, the Commission's March 14, 1990 public hearing was continued to the Commission's May 9, 1990 and June 13, 1990 meetings; and

WHEREAS, the Commission considered the March 14, 1990 and April 18, 1990 reports of the Executive Officer and testimony received at the public hearing held on the Proposal's scope of study; and,

WHEREAS, the Commission, at its June 13, 1990 meeting and following close of its public hearing, adopted the Proposal's scope of study which included a reduction in the Proposal boundary from 8 1/4 square miles to 5 1/2 square miles; and,

WHEREAS, the Executive Officer completed an Initial Study under provisions of the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the Commission's EIR Guidelines, and determined an Environmental Impact Report was required for the Proposal; and

WHEREAS, the Executive Officer contracted with Environmental Science Associates, Inc. for preparation of the Draft and Final EIRS; and

WHEREAS, the American Canyon Incorporation Draft EIR was completed on October 5, 1990 for which a Notice of Completion was issued by the Executive Officer; and

WHEREAS, the Executive Officer circulated the Draft EIR for public review and comments to Responsible Agencies and Trustee Agencies and the State Clearinghouse under requirements of the State CEQA Guidelines; and

WHEREAS, the Commission held a public hearing on the Draft EIR for purpose of receiving public comment at its November 14, 1990 meeting which was continued to its December 12, 1990 meeting; and

WHEREAS, the Final EIR was completed on March 26, 1991 and circulated to Responsible Agencies, Trustee Agencies and persons who filed written comments on the Draft EIR; and

WHEREAS, the Commission, at its April 10, 1991 meeting, certified that the Final EIR has been completed in compliance with CEQA, the State CEQA Guidelines, and the Commission's EIR Guidelines; and

WHEREAS, the American Canyon Incorporation Comprehensive Fiscal Analysis, hereinafter referred to as "the Fiscal Analysis", was prepared on the Proposal pursuant to the Commission's adopted scope of study by Angus McDonald & Associates; and

WHEREAS, the Fiscal Analysis was completed on March 26, 1991 and accepted by the Executive Officer as meeting the requirements of California Government Code Section 56833.1; and

WHEREAS, the Executive Officer provided for a 3-week public review and comment period on the Fiscal Analysis (March 26, 1991 through April 16, 1991) under the Commission's adopted Incorporation Guidelines and Procedures; and

WHEREAS, the Executive Officer provided for a 30-day period of time (March 26, 1991 through April 26, 1991) in which any person may file for a State Controller's Review of the Fiscal Analysis pursuant to California Government Code Section 56833.3 and the Commission's adopted Incorporation Procedures and Guidelines; and

WHEREAS, the Executive Officer issued the Proposal's Certificate of Filing under California Government Code Section 56828(g) and the Commission's adopted Incorporation Procedures and Guidelines, and set the Proposal for public hearing for the Commission's May 8, 1991 meeting; and

WHEREAS, the Commission held a public hearing on April 10, 1991 to receive public comment on the Fiscal Analysis and continued its hearing to the Commission's May 8, 1991 meeting; and

WHEREAS, the Commission held a public hearing on April 10, 1991 for the purpose of establishing the Proposal's boundary; and

WHEREAS, the Commission considered the April 10, 1991 report of the Executive Officer and the testimony received during the April 10, 1991 public hearing; and

WHEREAS, the Commission closed its public hearing held on the Proposal's boundary and adopted an Incorporation boundary as shown on Map #1 and by reference incorporated herein; and

WHEREAS, the Proposal as amended by the Commission at its April 10, 1991 meeting with the boundary shown on the attached Map #1 includes the merger of the American Canyon County Water District and County Service Area No. 1 into the City and the establishment of the American Canyon Fire Protection District as a subsidiary district of the new City, and is hereinafter referred to as "the Amended Proposal"; and

WHEREAS, the Commission, at its May 8, 1991 meeting held its continued public hearing on the Fiscal Analysis and considered the Supplemental Analysis prepared on the Amended Proposal by Angus McDonald & Associates dated May 8, 1991; and

WHEREAS, the Executive Officer reviewed the Amended Proposal including the Fiscal Analysis dated March 26, 1991 and the 1990 American Canyon Incorporation Final Environmental Impact Report (EIR) and prepared his report, including his recommendations thereon and presented his report and recommendation to the Commission; and

WHEREAS, the final public hearing by this Commission was held on May 8, 1991, in accordance with the date, time and place specified in the Notice of Public Hearing given by the Executive Officer; and

WHEREAS, at such hearing this Commission considered the Executive Officer's report and recommendations and heard and received all oral and written comments, objections, and evidence which were made, presented, or filed, in respect to any and all matters relating to the Amended Proposal; and

WHEREAS, in accordance with the adopted Local Agency Formation Commission EIR Guidelines, the Commission upon conclusion of its hearing made the following findings and determinations:

1. In accordance with State CEQA Guidelines Section 15090, the Commission finds it has reviewed and considered the 1990 American Canyon Incorporation Final EIR prior to taking action on the American Canyon Incorporation Project.

2. In accordance with State CEQA Guidelines Section 15091, the Commission makes the following findings:

a. that the American Canyon Incorporation Project could have significant but mitigatable environmental effects on the environment.

b. that reduction in the Incorporation boundary adopted by the Commission on April 10, 1991 represents the environmentally superior alternative as identified in the Final EIR and that such reduction eliminated significant environmental impacts to:

- adopted plans and policies of the Napa County General Plan, Napa County Zoning ordinances, Napa LAFCO policies, and State Legislative policies and declaration contained in the Cortese/Knox Local Government Reorganization Act of 1985; and,

- lessened but not eliminated significant impacts to traffic, air quality, noise energy, schools, biological resources, geology and seismicity, mineral resources, hydrology and water quality, and cultural resources.

c. that mitigation measures to reduce or eliminate identified significant environmental impacts of the adopted Incorporation boundary are the responsibility of other public agencies having jurisdiction within the adopted Incorporation boundary including:

- future City of American Canyon
- County of Napa
- Metropolitan Transportation Commission
- State Department of Transportation

d. that the following growth inducing impact of the American Canyon Incorporation project cannot be mitigated:

1. the incorporation area would be removed from the plans and policies of the Napa County General Plan including Measure A, thereby allowing a faster rate of residential growth;
2. the incorporation would increase the potential for adjacent agriculturally zoned land to be rezoned to residential;
3. the incorporation would allow the future potential to annex surrounding open/agricultural lands to be developed to residential or industrial uses.

In accordance with State CEQA Guidelines Section 15092, to Commission makes the following findings:

- a. the Commission has reduced or eliminated significant effects to adopted plans and goals of the County of Napa General Plan, the Legislative findings and declarations contained in the Cortese Knox Local Government Reorganization Act of 1985 and the Napa LAFCO adopted policy determinations; and,
- b. the remaining environmental effects of the American Canyon Incorporation project have been lessened but not eliminated as a result of reduction of the adopted Incorporation boundary to exclude AW zoned land; and,
- c. the recommended mitigation measures contained in the Final EIR to reduce or eliminate the remaining identified significant effects on the environment are the responsibility of other public agencies including the County of Napa, the Metropolitan Transportation Commission, and CALTRANS. Such agencies can and should adopt the recommended mitigation measures as part of future project plans.
- d. the growth induction impact of the American Canyon Incorporation project is acceptable due to overriding considerations identified in finding No. 4.

4. In accordance with State CEQA Guidelines Section 15093, the Commission makes the following findings:

Statement of Overriding Consideration

a. Incorporation of the community of American Canyon with merger of the American Canyon County Water District and County Service Area No. 1 into the new City and the establishment of the American Canyon Fire Protection District as a subsidiary district of the new City would result in the creation of one single governmental agency, replacing the several limited purpose districts in combination with Napa County which would be accountable for community service needs and the expenditure of the available limited financial resources. A single governmental entity would also provide the best mechanism for establishing community service priorities. Additional benefits would include the elimination of the duplication of professional services currently provided by multiple attorneys, engineers, administrators and accountants; better overall planning for future capital improvements and service needs; and more efficient use of limited revenue resources.

b. The American Canyon Incorporation proposal is consistent with the Commission's policy to encourage urban development in urban areas where essential public services are available to serve existing and future development. The American Canyon Community is served with an adequate level of public water and sewer services, fire protection service, recreation facilities, and police protection.

c. The American Canyon Incorporation is consistent with the Napa County General Plan policies of directing growth into the County designated urban areas, thereby preserving the County's agricultural and open space areas including the grazing lands to the east and the historic marshlands to the west of the adopted Incorporation boundary.

d. The American Canyon Incorporation proposal is consistent with State Legislative policies and declarations which discourages urban sprawl and encourages the orderly formation and development of local governmental agencies, preserves valuable agricultural and open space lands, and encourages the formation of a single governmental agency rather than several limited special purpose districts which would be accountable for community service needs and financial resources.

e. The American Canyon Incorporation proposal will promote the construction of additional housing, including affordable housing, needed to accommodate future new residents resulting from the planned industrial development within the Napa County Airport Industrial Area Specific Plan and from the area's general over all development.

f. Future development within the American Canyon Community could provide the Community with needed and varied shopping facilities thereby reducing vehicle trips to outlying communities.

g. The American Canyon Incorporation will allow residents and property owners to have self determination and local control over land use matters and public service needs.

WHEREAS, the Commission, in accordance with California Government Code Section 56375.1, made the following findings and determinations:

(1) The Amended Proposal is consistent with the intent of the Cortese/Knox Local Government Reorganization Act of 1985 including, but not limited to the policies contained in California Government Code Sections 56001, 56300, 56301, and 56377; and

(2) The Amended Proposal is consistent with the sphere of influence of the American Canyon County Water District, the American Canyon Fire Protection District, and County Service Area No. 1; and,

- (3) The Commission reviewed the Fiscal Analysis prepared on the Amended Proposal dated May 7, 1991; and,
- (4) The Commission reviewed the Executive Officer's Report and recommendation prepared pursuant to California Government Code Section 56833 and the testimony presented at its May 8, 1991 and May 15, 1991 public hearings; and
- (5) The City of American Canyon is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following the effective date of Incorporation.

NOW, THEREFORE, the Napa County Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Section 1. The Amended Proposal to incorporate the Community of American Canyon is APPROVED, conditioned on the terms and conditions attached hereto as Exhibit "B", and made a part hereof.

Section 2. The Amended Proposal is assigned the following distinctive designation: AMERICAN CANYON INCORPORATION.

Section 3. The affected territory is described in Exhibit A, attached hereto and made a part hereof.

Section 4. The Amended Proposal shall be subject to the terms and conditions contained in Exhibit B, attached hereto and made a part hereof.

Section 5. In accordance with California Government Code Section 56375(g), the number of registered voters residing within the affected territory is 3551.

Section 6. In accordance with California Government Code Section 56842.6, a provision appropriations limit shall be established for the City of American Canyon in the amount of \$2,527,700.

Section 7. The Amended Proposal shall be conditioned upon the reorganization of the American Canyon County Water District and the American Canyon Fire Protection District through the merger of the American Canyon County Water District and the establishment of the American Canyon Fire Protection District as a subsidiary district of the City of American Canyon.

Section 8. The Napa County Board of Supervisors is designated as the Conducting Authority and is directed to initiate, conduct, and complete proceedings for the Amended Proposal pursuant to the requirements of the Cortese/Knox Reorganization Act of 1985, as amended (Part 4 of Division 3, Title 5, of the California Government Code commencing with Section 57000).

Section 9. The Executive Officer is hereby authorized to distribute certified copies of this resolution as provided for in Section 56853 of the California Government Code.

The foregoing resolution was duly and regularly adopted by the Local Agency Formation Commission of the County of Napa, at a regular meeting held on the 15th day of May, 1991, by the following vote:

| | | |
|---------|---------------|---|
| AYES: | Commissioners | <u>BATTISTI, JORDAN, FERRIOLE, LEFTWICH</u> |
| | | <u>AND PAULSON</u> |
| NOES: | Commissioners | <u>NONE</u> |
| ABSENT: | Commissioners | <u>NONE</u> |

ATTEST:

AGNES DEL ZOMPO
Clerk of the Commission

by: *Tere Sisson*
Deputy

Amer. Can. Resol. 91' W.P.

THE FOREGOING INSTRUMENT IS A CORRECT COPY
OF THE ORIGINAL ON FILE IN THIS OFFICE

MAY 23 1991

ATTEST: _____

AGNES DEL ZOMPO

CLERK OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF NAPA STATE OF CALIFORNIA

BY *Tere Sisson* DEPUTY

EXHIBIT "A"**AMERICAN CANYON INCORPORATION BOUNDARY DESCRIPTION**

BEING a portion of Township 4 North, Range 3,4, and 5 West, Mount Diablo Base and Meridian, described as follows:

AREA #1:

BEGINNING at a "T" bar and tag stamped "R.C.E. #6250", marking the Southwest corner of Parcel B, as shown on the map entitled "Survey and Division of the Madigan Ranch in Napa County and Solano County, California", filed December 17, 1971 in Book 3 of Parcel Maps at Page 68 in the office of the County Recorder of Napa County, California, all further references to filing or recording being made to said Napa County Recorder unless otherwise stated for purposes of this description; thence Westerly along the Napa - Solano County line 7640 feet to the Southeast corner of the land described in deed to the State of California recorded in Book 1570 at Page 922 of Official Records; thence Northerly along the East line of said lands 2024 feet to the Northeast corner thereof; thence Westerly along the North line of said land 650 feet to a "T" bar and tag stamped "R.C.E. #6250", marking the Southeast corner of the lands of Pauline Burastero, et al, as shown on the map entitled "Record of Survey of the lands of American Canyon Sanitary Land Fill Co., Inc., and the lands of Pauline Burastero, et al" filed May 31, 1974 in Book 18 of Surveys at Page 71; thence Northerly, Westerly, and Northerly along the East line of said lands of Burastero, et al, 7583 feet to the Northerly right of way line of Eucalyptus Drive; thence Easterly along said right of way line 954 feet to an iron pipe capped with a copper disk stamped "R.C.E. #3389", marking the Southeast corner of the lands of Robt. L. Couch, as shown on the map entitled "Record of Survey in Sections 14, 15, 22 & 23, T4N, R4W, M.D.M.", filed January 21, 1974 in Book 1 of Miscellaneous Survey Data at Page 17 in the office of the County Surveyor of Napa County, California; thence Northerly along the East line of said lands 2528 feet to an iron pipe capped with a copper disk stamped "R.C.E. #3389", marking the Northeast corner of said lands; thence Westerly along the North line of said lands 2112 feet to an iron pipe capped with a copper disk stamped "R.C.E. #3389"; thence Northerly 376 feet to an iron pipe capped with a copper disk stamped "R.C.E. #3389"; thence Westerly 789 feet to a 3/4" iron pipe with a cap stamped "R.C.E. #11597", marking the Southwest corner of Parcel 1, as shown on the map entitled "Parcel Map of the lands of Louis O. Wurz Jr., et al and Covenant Presbyterian Church of Napa" filed December 1, 1986 in Book 15 of Parcel Maps at Page 20; thence Northerly along the West line of

said Parcel 1 and the extension thereof 2310 feet to the Westernmost point of Parcel "P" as shown on said map; thence Easterly along the North line of said Parcel "P" on a non-tangent curve concave to the South an arc length of 56 feet to the North line of Parcel "L" as shown on said map; thence Easterly along said North line 406 feet to a 3/4" iron pipe with a tag stamped "L.S. 4559", marking the Southwest corner of Parcel 1 as shown on the map entitled "Parcel Map of a portion of the lands of Louis O. Wurz Jr., et al", filed May 18, 1983 in Book 13 of Parcel Maps at Page 72; thence Northerly along the West line of said Parcel 1 and the extension thereof 607 feet to the Northerly right of way line of Green Island Road; thence Easterly, Southerly, and Easterly along said right of way line a total of 4799 feet to a 3" Bathey Monument marking the Southeast corner of Parcel "B", as shown on the map entitled "Record of Survey Map of a portion of the lands of Geo. M. Lawrence, et ux", filed January 16, 1959 in Book 4 at Page 46; thence Easterly along the South line of Parcel "A", as shown on said map 887 feet to the Southeast corner of the land described in deed to Albert Giovannoni recorded in Book 586 at Page 475 of Official Records; thence Northerly and Northwesterly along the East line of said lands 2589 feet to the Northeast corner thereof; thence Easterly 1040 feet along the extended South line of the lands described in deed to Phyllis Farr recorded in Book 1352 at Page 32 of Official Records to the Southwest corner of the Remaining Lands of Record as shown on the map entitled "Parcel Map of the lands of Terry B. Maher, et ux, and E.T. Thompson, et ux", filed October 23, 1970 in Book 2 of Parcel Maps at Page 62; thence Northerly, Northwesterly, and Northeasterly along the West line of said lands a total of 1008 feet to the Northwest corner thereof; thence Easterly along the extended North line of said lands 375 feet to the West line of the land described in deed to Security Owner's Association recorded in Book 1369 at Page 659 of Official Records; thence Southerly, Southeasterly, Easterly, and Southerly along said West line a total of 2721 feet to the Northwest corner of the lands described in deed to Albert Paoli recorded in Book 802 at Page 536 of Official Records; thence Southerly and Southeasterly along the West line of said lands a total of 517 feet to the Northwest corner of the lands described in deed to Thomas J. & Hannah R. Dunlap recorded in Book 1136 at Page 50 of Official Records; thence Southeasterly along the West line of said lands 590 feet to the Northwest corner of the lands described in deed to Florence Clerici recorded in Book 1773 at Page 639 of Official Records; thence Southeasterly along the extended West line of said lands 363 feet to the South right of way line of Watson Lane; thence Westerly and Southwesterly along said right of way line a total of 640 feet to the East right of way line of Paoli Loop Road; thence Southerly and Southwesterly along said right of way line a total of 492 feet to the Northwest corner of the lands described in deed to Thomas and Marsha Conaster recorded in Book 1764 at Page 343 of Official Records; thence Southwesterly and Southerly along the West line of said lands a total of 151 feet to the Southwest corner thereof; thence Easterly along the South line of said lands

on a non-tangent curve concave to the North an arc length of 828 feet to the Southeast corner thereof; thence South 28 57' East 640 feet to the East right of way line of Southern Pacific Railroad, Suisun Branch ; thence Southerly along said right of way line 2536 feet to the Northwestern corner of the land described in deed to Jaeger Vineyards recorded in Book 1405 at Page 586 of Official Records; thence Easterly along the North line of said lands 1419 feet to the Northeast corner thereof; thence Southerly along the East line of said lands 750 feet to the Southeast corner thereof; thence Westerly along the South line of said lands 1415 feet to the Southwest corner thereof, said Southwest corner marking also the aforementioned East right of way line of Southern Pacific Railroad, Suisun Branch; thence Southerly along said right of way line 2792 feet to the Northwest corner of the lands described in deed to Albert E. and Cecelia Lehman recorded in Book 1759 at Page 223 of Official Records; thence Easterly along the North line of said lands 227 feet to the Northwest corner of the lands described in deed to Richard and Margaret C. Arnold recorded in Book 689 at Page 440 of Official Records; thence Easterly along the North line of said lands 454 feet to the Northwest corner of the lands described in deed to Thomas B. and Hazel M. Williams recorded in Book 1722 at Page 924 of Official Records; thence Easterly along the North line of said lands 454 feet to the Northwest corner of the lands described in deed to Cedric P. and Christina Tabanera recorded in Book 1124 at Page 740 of Official Records; thence Easterly along the North line of said lands 364 feet to the Northeast corner of said lands; thence Southerly along the East line of said lands 193 feet to the Northeast corner of the lands described in deed to Elmer J. and Amy Georgina Wheeler recorded in Book 1586 at Page 643 of Official Records; thence Southerly along the East line of said lands 107 feet to the Southeast corner thereof; thence Southwesterly along the Southwestern line of said lands 765 feet to a point on the North line of the lands described in deed to Elmer J. and Georgina Wheeler recorded in Book 1717 at Page 320 of Official Records, said point being westerly 131 feet from the Westernmost point of said lands; thence Westerly along the North line of said lands 131 feet to the Westernmost point thereof; thence Southwesterly along the South line of said lands 1126 feet to the Northwest corner of the lands described in deed to James V. and Jane Fazzari recorded in Book 1464 at Page 004 of Official Records; thence Southerly and Southeasterly along the West line of said lands a total of 585 feet to the North right of way line of American Canyon Road; thence Easterly along said right of way line 3750 feet to the extended West line of Parcel B as shown on the aforementioned map entitled "Survey and Division of the Madigan Ranch³ in Napa County and Solano County, California"; thence Southerly along said extended West line 3470 feet to a "T" bar and tag stamped "R.C.E. #6250", marking the Southwest corner of Parcel B, said point being the true point of beginning.

AREA #2:

BEING that 62.779 acre parcel designated "American Canyon County Water District" as shown on the map entitled "Record of Survey of the lands of American Canyon Sanitary Land Fill Co., Inc., and the lands of Pauline Burastero, et al" filed May 31, 1974 in Book 18 of Surveys at Page 71 in the office of the County Recorder at Napa County, California.

AREA #3:

BEGINNING at an iron pipe monument stamped "R.C.E. #12366", marking the Southwest corner of the lands of Lucille Lynch as shown on the map entitled "Record of Survey Map of a portion of the lands of Lucille Lynch", filed March 7, 1968 in Book 15 of Surveys at Page 100; thence North along the West line of said lands 1499 feet to the Northeast corner of the lands described in deed to American Canyon Water District recorded in Book 1084 at page 676 of Official Records in the office of the County Recorder at Napa County, California; thence West along the North line of said lands 420 feet to the Northwest corner of thereof; thence South along the West line of said lands 1496 feet to the Southwest corner thereof; thence Easterly along the South line of said lands 420 feet to the Southeast corner thereof, said corner being the true point of beginning.

EXHIBIT B

AMERICAN CANYON INCORPORATION

TERMS AND CONDITIONS

Approval conditioned on merger of American Canyon County Water District with new City and the establishment of the American Canyon Fire Protection District as a Subsidiary District of the new City.

1. The findings and approval of the Amended Proposal made by the Commission herein in the Resolution Making Determinations are dependent upon the reorganization, as proposed, being approved by the voters in all respects. Therefore, should any separate election be called, held and conducted by the Conducting Authority herein pursuant to Government Code Section 57087.7, (or any other provision of law) on the question of whether the district should be merged or established as a subsidiary district as directed in this Resolution Making Determinations, the approval granted to this Reorganization shall become dependent upon the voters approving the merger or establishment of the subsidiary district as directed herein. Should the voters approve at any election the continued independent status of either the American Canyon Fire Protection District or the American Canyon County Water District, the Amended Proposal as a whole shall be deemed DENIED by the Commission.

Effective Date of Incorporation and District Reorganization

2. The effective date of incorporation shall be January 1, 1992 following the November 5, 1991 incorporation election. If for

any reason, the incorporation question is not placed on the ballot for the November 5, 1991 election, then the Amended Proposal shall be returned to the Local Agency Formation Commission by the Napa County Board of Supervisors as conducting authority for Incorporation proceedings for new findings and determinations in the form of a new Commission Resolution Making Determinations. The Commission's new resolution shall include findings and determinations required under Government Code Section 56842 (Property Tax Determination), Government Code Section 56842.6 (provisional appropriations limit), Government Code Section 56375.1(e) (3-year revenue/cost determination), and the establishment of new effective dates for merger of the American Canyon County Water District and County Service Area No. 1 into the City of American Canyon, and the establishment of the American Canyon Fire Protection District as a subsidiary district of the City of American Canyon.

Upon and after the effective date of the incorporation:

- (a) The City Clerk, City Treasurer, City Attorney, and, if applicable, the City Manager, shall be appointed by the City Council (Government Code Section 57101(a)).
- (b) The voters shall express their preference with regard to the following two (2) questions pursuant to Government Code Section 57101(b) and (c):

- (i) whether members of the City Council in future elections are to be elected by district or at large.
- (ii) whether or not the City shall operate under the city manager form of government, the ballot question being for or against the city manager form of government.
- (c) The terms of office of the members of the City Council shall be subject to the provisions of Government Code Section 57377 and 57379.

Provision of County Services

3. Pursuant to Government Code Section 57384, the Board of Supervisors shall continue to furnish, without additional charge, to the area incorporated, all services furnished to the area prior to incorporation. Such services shall be furnished for the remainder of the fiscal year during which the incorporation became effective or until the American Canyon City Council requests discontinuance of the services, whichever occurs first. The American Canyon City Council shall reimburse the County for the Net Cost of providing said services as determined under Government Code Section 56842(c)(2) within Five Years from July 1, 1992. During the time that the County is furnishing the services, the County shall continue to collect and use for their intended purpose those fees set forth in the various County Ordinances for the service. It is the intent of this condition to clarify the meaning of the words "without additional charge."

Adoption of County Ordinances

3. Pursuant to Government Code Section 57376, the American Canyon City Council shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all County ordinances theretofore applicable shall remain in full force and effect as a city ordinance for a period of 120 days or until the American Canyon City Council has enacted an ordinance specifically superseding the particular County ordinance, whichever occurs first.

4. The City shall enter into an agreement with the County to determine the maintenance responsibility of any streets on city boundary lines and under divided jurisdiction, to assure that each governmental entity assumes maintenance of approximately one-half (1/2) of these road miles.

Imposition of public sewer fees

5. The City Council shall immediately following its organization conduct a public hearing under applicable provisions of the Government Code consider an increase in sewer fees in an amount sufficient to offset cost of providing public sewers, thereby replacing property tax revenues transferred to the City of American Canyon general fund from the merged American Canyon County Water District.

American Canyon County Water District

6. The effective date of the merger of the American Canyon County Water District shall be January 1, 1992 following a successful November 5, 1991 incorporation election. Upon and after the effective date of merger of the American Canyon County Water District:

- (a) The offices of the Board of Directors of the American Canyon County Water District shall be terminated;
- (b) The City of American Canyon shall be the successor to the American Canyon County Water District for the purpose of succeeding to all the rights, duties and obligations of said District with respect to enforcement, performance, or payment of any outstanding voter-approved bonds, and implied or express contracts, judgments, and obligations of said Districts.
- (c) As successor agency to the American Canyon County Water District, the City of American Canyon shall assume all rights, duties, and obligations as a member of the Napa-American Canyon Waste Water Management Authority.
- (d) All property, whether real or personal, including all monies or funds (including cash on hand and monies due but uncollected) of the American Canyon County Water District shall be transferred to and vested in the City of American Canyon. All equities, reserves, and fund balances (operating, debt service, and construction) generated

through past operations of the American Canyon County Water District shall be transferred to the City of American Canyon to be maintained or disbursed for the water utility, sewer, or recreation purposes for which they were established.

- (e) All future delinquent taxes collected from the merged American Canyon Water District , together with all other assets which may accrue to the district, shall accrue to the City of American Canyon.
- (f) The current employees of the American Canyon County Water District shall be transferred to and become employees of the City of American Canyon with no loss or increase in status temporary, probationary, permanent and shall enjoy all of the rights and privileges of other employees of said City.
- (g) The benefits and rights of the American Canyon County Water District employees including, but not limited to, salary, seniority, rights, and retirement rights, sick leave, vacation and life insurance, shall be continued by the City at a level not less than that level established by contract, resolution or approval motion as reflected in the minutes as it existed on the date of the incorporation election. The City shall not, without its consent, be required to recognize an overall or any specific increase granted after a successful incorporation election and before

the effective date of merger of the American Canyon County Water District.

- (h) The City Council of the City of American Canyon shall determine each year the amount of money needed to make annual payment of the principal and interest of the outstanding voter-approved bonded indebtedness of the improvement district and shall provide that information to the Napa County Board of Supervisors. The Board of Supervisors shall each year provide for the levy and collection of taxes upon property within the City sufficient to pay the annual amount of principal and interest owing on account of the outstanding bonded indebtedness of the improvement district as said principal and interest shall become due. Such taxes shall be levied and collected in the same manner provided by the principal act of the dissolved American Canyon County Water District.

American Canyon Fire Protection District

(7) The effective date of establishment of the American Canyon Fire Protection District as a subsidiary district of the City of American Canyon shall be July 1, 1992 following a successful November 5, 1991 incorporation election. Upon and after the effective date of the establishment of the subsidiary district:

- (a) The City Council of the City of American Canyon shall be designated as and empowered to act as ex officio the board of directors of the subsidiary district (Government Code Section 57534).

- (b) The American Canyon Fire Protection District, as a subsidiary district of the City of American Canyon, shall continue in existence with all of the powers, rights, duties, obligations, and functions provided for by the District's principal act, except for any provisions relating to the selection or removal of the members of the board of directors of the district (Government Code Section 57534).
- (c) All lawfully enacted fees, charges, assessments or special taxes shall continue in effect after the effective date of establishment of the subsidiary district (Government Code Section 56844(t)).
- (d) The benefits and rights of all ACFPD employees, including all contracts, rules and regulations, job descriptions, staff and support assignments, and all provisions of the employees MOU including salary, seniority rights and retirement rights, deferred compensation, sick leave, vacation, holiday leave, and all other employee benefits covered at the time of incorporation under employee's contract and MOU shall be continued by the City at an overall level not less than that level established by contract as it existed on the date of the incorporation

election. The City shall not, without its consent, be required to recognize an overall or any specific increase granted after a successful incorporation election and before the effective date of the establishment of American Canyon Fire Protection District as a subsidiary district.

County Service Area No. 1

8. County Service Area No. 1 shall be merged pursuant to Government Code Section 25210.90. The City of American Canyon shall be the successor to County Service Area No. 1 for the purpose of succeeding to all of the rights, duties and obligations of County Service Area No. 1. All monies or funds (including cash in hand and monies due but uncollected) standing to the credit of County Service Area No. 1 shall be transferred to and vested in the City of American Canyon.

County Service Area No. 4

9. With the intent to insure the orderly development of the affected territory described in Attachment #1, the territory described in Attachment #1 shall be detached from the American Canyon County Water District on the effective date of the American Canyon Incorporation, January 1, 1992. The Board of Supervisors is directed to conduct proceedings to consider the formation of County Service Area No. 4 for the purpose of providing public sewer within the affected territory. If proceedings for formation of County Service Area No. 4 are terminated for any reasons, the sewer facilities and improvements

shall be under the ownership and control of the City of American Canyon as successor to the American Canyon County Water District.

Provisional Appropriations Limit

10. A provisional appropriations limit in the amount of \$2,527,700 shall be set for the City of American Canyon as required under Government Code Section 56842.6. The American Canyon City Council shall establish a permanent appropriations limit under Government Code Section 56842.6(c).

City of American Canyon Property Tax

11. Pursuant to Government Code Section 56842, the Commission has determined that the amount of property tax revenue transferred from the County to the City of American Canyon shall be \$523,331. Upon execution and recordation of the Executive Officer of a Certificate of Completion pursuant to Government Code Section 57203, the County Auditor shall transfer this property tax revenue to the City of American Canyon.

Ballot Questions

12. There shall be five items on the ballot as follows:
- (a) The question of the incorporation of the City together with the reorganization of the affected districts;
 - (b) The question of the elections of Council members by district or at large;
 - c) The question as to the adoption of a city manager form of government; and

- (d) The election of five City Council members.
- (e) The name of the new City as the "City of American Canyon".

Am/Can. Res. 91' W.P.

RECORDED IN
OFFICE OF RECORDS
OF NAPA COUNTY, CA

RECORDING REQUESTED BY AND
DOCUMENT TO BE RETURNED TO:

1989 DEC 28 PM 3:32

NAPA COUNTY
LOCAL AGENCY FORMATION COMMISSION
1195 THIRD STREET - ROOM 310
NAPA, CA 94559

ELEANOR ELLIOTT BROUGH
COUNTY RECORDER

Refer

CERTIFICATE OF COMPLETION

Pursuant to California Government Code Section 57200, this Certificate is issued by the Executive Officer of the Napa County Local Agency Formation Commission (LAFCO).

This proposal is identified as the Tower Road/Kelly Road District Annexation - ACCWD and represents a change of organization for annexation of territory to the American Canyon County Water District. This agency is located entirely within NAPA COUNTY.

Resolution #595 ordering this change of organization without election, was adopted on November 21, 1989 by the District Board of Directors. A certified copy of said resolution is attached to this certificate.

A legal description and map describing the boundaries of the proposal and any terms and conditions concerning said proposal are contained in the attached resolution of the District ordering the change of organization and by reference incorporated herein.

I hereby certify that I have examined the above cited resolution, including any terms and conditions, and the map and legal description and have found these documents to be in compliance with LAFCO Resolution No. 89-32, adopted on October 11, 1989.

All negotiations pursuant to the provisions of Revenue and Taxation Code Section 99 have been completed.

Dated: December 28, 1989

Jay Hull, Executive Officer
Local Agency Formation Commission

By R. Charles Wilson
R. Charles Wilson
Assistant Executive Officer

I HEREBY CERTIFY THAT THIS DOCUMENT
IS A TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN THE OFFICE OF THE
NAPA COUNTY LOCAL AGENCY FORMATION
COMMISSION.

Aileen M. Zipon



June 2, 1989
#85-12

LEGAL DESCRIPTION

Exhibit A
Tower Road/Kelly Road
District Annexation - ACCWD

All that real property situated in the County of Napa, State of California, being more particularly described follows:

Beginning at the southeasterly corner of the "State Highway 29/Aviation Way District Annexation - NSD" recorded December 21, 1989 in Book 1705 of Official Records at Page 906, Napa County Records; said point also being the northeast corner of Parcel B as shown on the "Parcel Map of Case Enterprises, Inc." recorded in Book 13 of Parcel Maps at Page 74, Napa County Records; thence S $0^{\circ} 18' 28''$ W 1092.43 feet along the western right of way line of South Kelly Road to the beginning of a curve concave to the west having a radius of 410.04 feet; thence southerly 227.39 feet along said curve through a central angle of $31^{\circ} 46' 27''$; thence S $32^{\circ} 04' 55''$ W 1161.22 feet; thence N $89^{\circ} 30' 39''$ W 95.84 feet to the eastern right of way line of State Route 29; thence N $2^{\circ} 29' 35''$ W along the eastern right of way line of State Route 29 to a point which bears S $89^{\circ} 28' 51''$ E from the southeast corner of Parcel 4 as shown on the "Parcel Map of the Lands of Albert R. Saraiva" recorded in Book 14 of Parcel Maps at Page 87, Napa County Records; thence N $89^{\circ} 28' 51''$ W 2717.03 feet more or less to a point on the eastern right of way line of the Southern Pacific Railroad; thence N $27^{\circ} 17' 35''$ W 1197.30 feet along said eastern right of way line; thence N $27^{\circ} 04' 15''$ W 1156.71 feet along said eastern right of way line to the southwestern corner of Parcel 2 as shown on the "Parcel Map of the Lands of D.M. Group VII, a Limited Partnership" recorded in Book 14 of Parcel Maps at Pages 1 and 2, Napa County Records; thence S $89^{\circ} 29' 03''$ E 378.71 feet; thence S $27^{\circ} 06' 15''$ E 379.10 feet; thence S $88^{\circ} 52' 15''$ E 1397.50 feet; thence N $0^{\circ} 19' 30''$ E 256.87 feet; thence S $89^{\circ} 23' 15''$ E 500.00 feet; thence S $0^{\circ} 56' 56''$ W 74.00 feet; thence S $65^{\circ} 24' 15''$ E 626.20 feet; thence N $89^{\circ} 43' 15''$ E 481.52 feet to the northeastern corner of Parcel D as shown on the "Record of Survey Map of the Lands of Rudolph J. Mihelich" recorded in Book 9 of Surveys at Page 79,

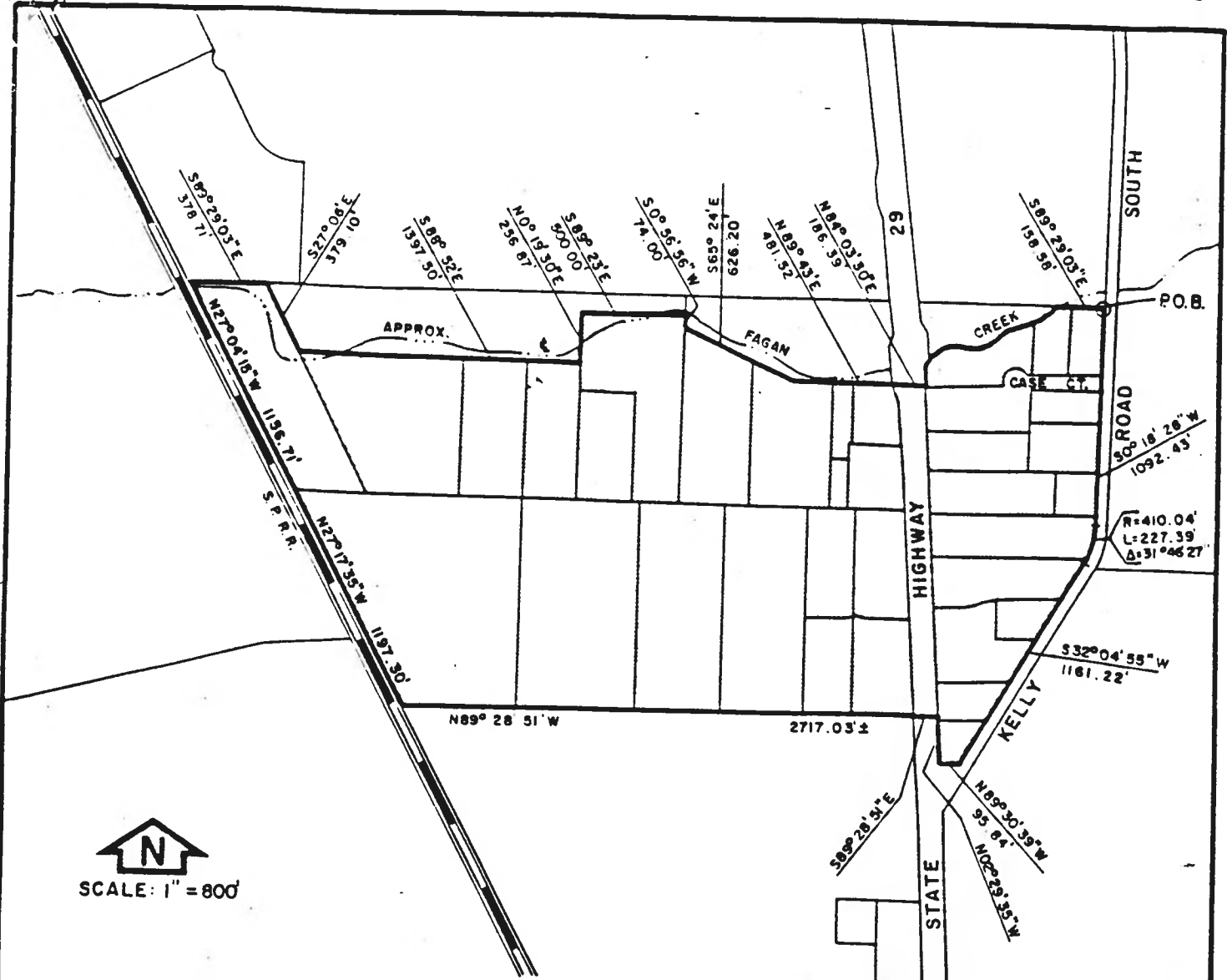
Charles W. Shinnamon & Associates
I N C O R P O R A T E D

CONSULTING CIVIL ENGINEERS

1541 THIRD STREET • NAPA, CALIFORNIA 94559 • (707) 252-3301

#85-12
June 2, 1989
Page Two

Napa County Records, said point also being on the western right of way line of State Route 29; thence N 84° 03' 30" E 186.39 feet to a point on the eastern right of way line of State Route 29; said point also being the southwestern corner of Parcel C as shown on the "Parcel Map of the Lands of Gardner-Pacific, a California Corporation" recorded in Book 13 of Parcel Maps at Page 45, Napa County Records, said point also being the beginning of a non-tangent curve concave to the west having a radius of 10,070 feet and to which beginning a radial line bears N 83° 49' 13" E; thence northerly along said curve 120.90 feet through a central angle of 0° 41' 16" to the center of North Fagan Creek; thence on a non-tangent line along the centerline of North Fagan Creek N 56° 58' 20" E 63.26 feet; thence S 82° 30' 40" E 101.44 feet; thence N 57° 37' E 243.31 feet; thence N 67° 28' 30" E 174.73 feet; thence N 73° 57' 30" E 213.64 feet to a point on the northern line of Parcel B as shown on the aforementioned "Parcel Map of Case Enterprises, Inc."; thence along said northern line S 89° 29' 03" E 158.58 feet to the point of beginning.



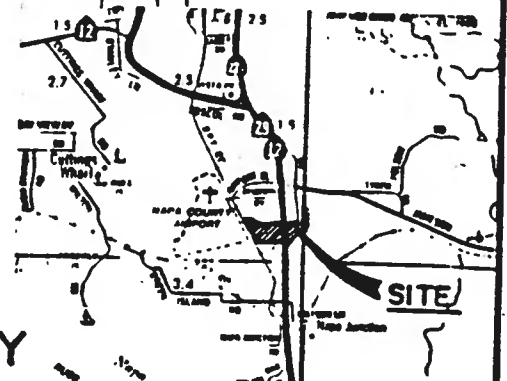
SCALE: 1" = 800'

AREA: 155.25 ACRES

STREET: 0.50 MILES

ZONING: I

AREA TO BE ANNEXED



**MAP DELINEATING THE BOUNDARY
OF THE
TOWER RD./KELLY RD.
DISTRICT ANNEXATION - A.C.C.W.D.**

END OF DOCUMENT



Charles W. Shinnamon & Associates
INCORPORATED

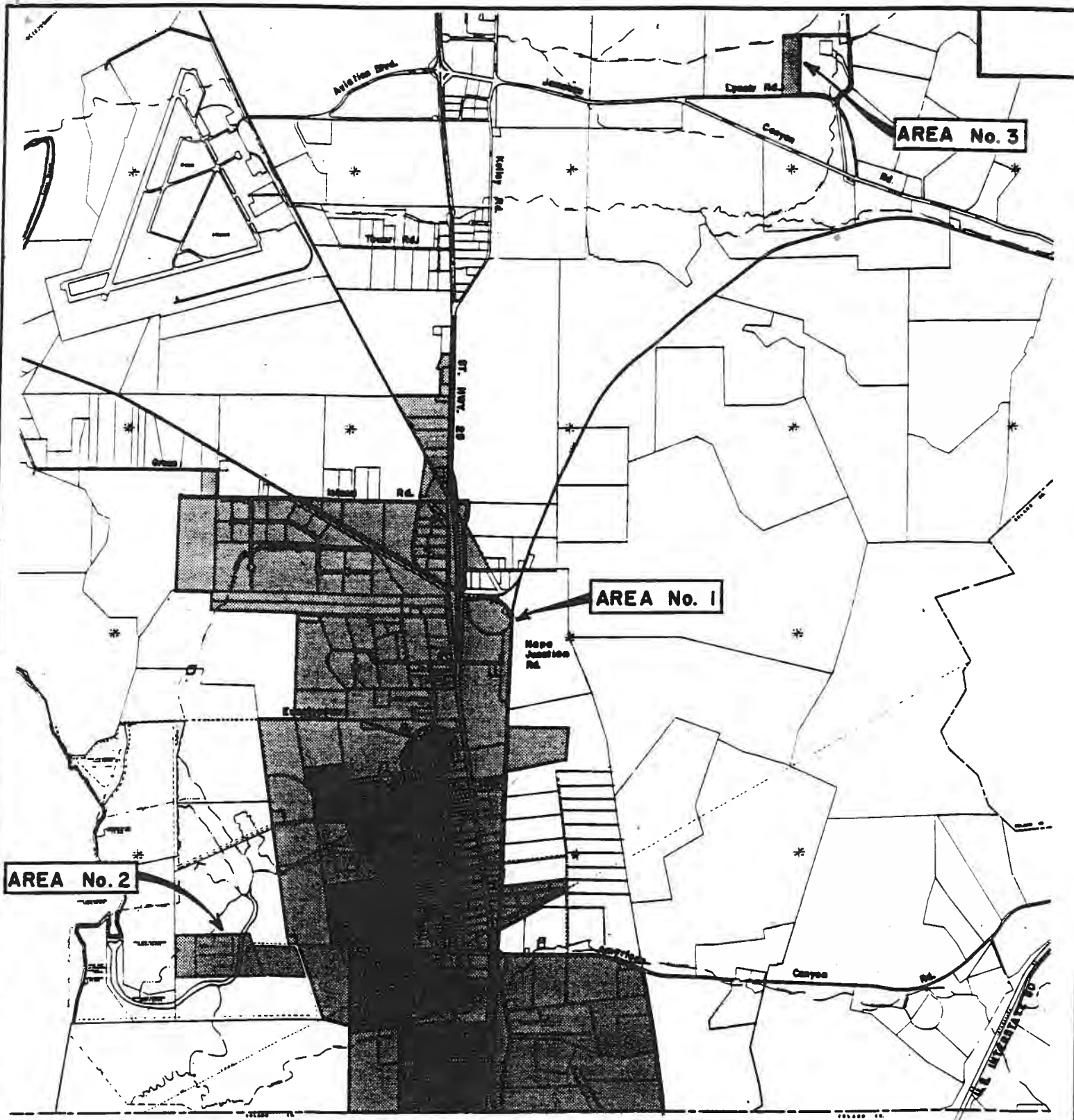
CONSULTING CIVIL ENGINEERS

1541 THIRD STREET • MARA, CALIFORNIA 94799 • (707) 252-3301

MARCH, 1989

85-12

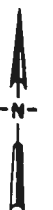
AMERICAN CANYON INCORPORATION BOUNDARY MAP



• LEGEND •



INCORPORATION BOUNDARY
ADOPTED BY LAFCO ON MAY 15, 1991
RES. No. 91-18



SCALE
1" = 3400'

EXHIBIT D

MINUTES OF THE MEETING OF THE
LOCAL AGENCY FORMATION COMMISSION

COUNTY OF NAPA

May 15, 1991

1. Call to Order.
THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF NAPA MET IN SPECIAL SESSION, WEDNESDAY, MAY 15, 1991, AT 7:30 P.M. WITH THE FOLLOWING MEMBERS PRESENT: CHAIRMAN DAVE PAULSON, COMMISSIONERS PAUL BATTISTI, VINCE FERRIOLE, CARLEE LEFTWICH AND THOMAS JORDAN.
2. Public Comment.
NONE

PUBLIC HEARINGS

AMERICAN CANYON INCORPORATION

A proposal to incorporate as a general law city, the Community of American Canyon, a 3 1/4 square mile area of land located generally north of the Solano County/Vallejo City limit line, west of Flodden Road and the Southern Pacific Railroad tracks, 3/4's of a mile east of the Napa River, and 1/2 mile south of Tower Road.

Environmental Determination: 1990 American Canyon Incorporation Final Environmental Impact Report was prepared and certified by the Commission on April 10, 1991. This document will be reviewed and considered by the Commission prior to taking actions on the Incorporation project.

(Continued from the Commission's April 10, 1991 meeting)

3. Executive Officer's Report & Recommendation - The Commission will consider and take possible actions to approve the American Canyon Incorporation Project. (Continued from the Commission's May 8, 1991 meeting)
PUBLIC HEARING HELD

THE COMMISSION ADOPTED RESOLUTION MAKING DETERMINATIONS APPROVING THE AMERICAN CANYON INCORPORATION PROJECT AMENDING 4 E (PAGE 11) TO INCLUDE AFFORDABLE HOUSING AND ADDING AN ADDITIONAL PARAGRAPH WITH REGARD TO COUNTY SERVICE AREA NO. 4 TO EXHIBIT B (AMERICAN CANYON INCORPORATION TERMS AND CONDITIONS - PAGE B-9) AS FOLLOWS:

4. E. THE AMERICAN CANYON INCORPORATION PROPOSAL WILL PROMOTE THE CONSTRUCTION OF ADDITIONAL HOUSING, INCLUDING AFFORDABLE HOUSING, NEEDED TO ACCOMMODATE FUTURE NEW RESIDENTS RESULTING FROM THE PLANNED INDUSTRIAL DEVELOPMENT WITHIN THE NAPA COUNTY AIRPORT INDUSTRIAL AREA SPECIFIC PLAN AND FROM THE AREA'S GENERAL OVER ALL DEVELOPMENT.

Local Agency Formation Commission Minutes
May 15, 1991

Page 2

3. Continued

COUNTY SERVICE AREA NO. 4

9. WITH THE INTENT TO INSURE THE ORDERLY DEVELOPMENT OF THE AFFECTED TERRITORY DESCRIBED IN ATTACHMENT #1, THE TERRITORY DESCRIBED IN ATTACHMENT #1 SHALL BE DETACHED FROM THE AMERICAN CANYON COUNTY WATER DISTRICT ON THE EFFECTIVE DATE OF THE AMERICAN CANYON INCORPORATION, JANUARY 1, 1992. THE BOARD OF SUPERVISORS IS DIRECTED TO CONDUCT PROCEEDINGS TO CONSIDER THE FORMATION OF COUNTY SERVICE AREA NO. 4 FOR THE PURPOSE OF PROVIDING PUBLIC SEWER WITHIN THE AFFECTED TERRITORY. IF PROCEEDINGS FOR FORMATION OF COUNTY SERVICE AREA NO. 4 ARE TERMINATED FOR ANY REASONS, THE SEWER FACILITIES AND IMPROVEMENTS SHALL BE UNDER THE OWNERSHIP AND CONTROL OF THE CITY OF AMERICAN CANYON AS SUCCESSOR TO THE AMERICAN CANYON COUNTY WATER DISTRICT.

BJFLP

R-91-18

4. Sphere of Influence - The Commission will consider and take possible actions to establish the City of American Canyon Sphere of Influence. (Continued from the Commissions May 8, 1991 meeting)

PUBLIC HEARING HELD

THE COMMISSION ADOPTED RESOLUTION ADOPTING A CITY SPHERE OF INFLUENCE FOR THE CITY OF AMERICAN CANYON AMENDING 4 D (PAGE 5) TO INCLUDE AFFORDABLE HOUSING AS FOLLOWS:

4. D. THE AMERICAN CANYON INCORPORATION PROPOSAL WILL PROMOTE THE CONSTRUCTION OF ADDITIONAL HOUSING, INCLUDING AFFORDABLE HOUSING, NEEDED TO ACCOMMODATE FUTURE NEW RESIDENTS RESULTING FROM THE PLANNED INDUSTRIAL DEVELOPMENT WITHIN THE NAPA COUNTY AIRPORT INDUSTRIAL AREA SPECIFIC PLAN AND FROM THE AREA'S GENERAL OVER ALL DEVELOPMENT.

JBFLP

R-91-19

COMMISSION BUSINESS


5. Commission to consider and take possible action to adopt the Commission's 1991-92 budget. (Continued from the Commission's May 8, 1991 meeting)
CONTINUED TO JUNE 12, 1991

Local Agency Formation Commission
May 15, 1991

Page 3

COMMISSIONER JORDAN REQUESTED THAT AN ITEM BE INCLUDED ON THE JUNE 12, 1991 AGENDA FOR DISCUSSION AND POSSIBLE ACTION REGARDING PER DIEM.


6. Adjournment.
ADJOURNED TO THE REGULAR LOCAL AGENCY FORMATION COMMISSION MEETING
WEDNESDAY, JUNE 12, 1991 AT 7:30 P.M.



DAVE PAULSON
Chairman

ATTEST:

R. CHARLES WILSON
Executive Officer

By: 
AGNES DEL ZOMPO
Clerk of the Board

KEY

Vote: L = Carlee Leftwich; F = Vince Ferriole; P = Dave Paulson;
J = Thomas Jordan; B = Paul Battisti; K = Harold Kelly (Alternate)
M = John Mikolajcik (Alternate); H = Lester Hardy (Alternate)
Notations under Vote: N = No; A = Abstained; X = Excused

NAPA COUNTY DEPARTMENT OF PUBLIC WORKS
NOTICE OF APPROVAL
LOT LINE ADJUSTMENT APPLICATION
OF THE LANDS OF AMCAN LAND HOLDING, INC.
ASSESSOR PARCEL NUMBERS: 059-040-041, 043 AND 044

Notice is hereby given by the Director of the Napa County Department of Public Works that an application for a Lot Line Adjustment between the above stated adjacent existing parcels has been reviewed pursuant to Section 17.46 020 of the Napa County Subdivision Ordinance and found to comply with the requirements stated therein.

This Lot line Adjustment application is hereby deemed Approved as of the date of this publication

Copies of all documents which relate to the above described project may be examined at the office of the Director of Public Works at 1195 Third St., Room 201, Napa, CA.

Interested parties have ten (10) days from the date of this publication to appeal this decision by filing a Notice of Appeal with the Director of Public Works.

DATED: June 3, 2000

ATTEST:


Michael A. Shepherd
Engineering Services

PUBLISH Napa Register, June 9, 2000

BILL TO: NAPA COUNTY DEPT. OF PUBLIC WORKS

CC: file

EXISTING PARCELS

TENTATIVE MAP
FOR A LOT LINE ADJUSTMENT
OF THE LANDS OF

AMCAN LAND HOLDING, INC.

NEWELL
1993-039847 O.R.

NEWELL
1993-002405 O.R.
21 SURVEYS 69

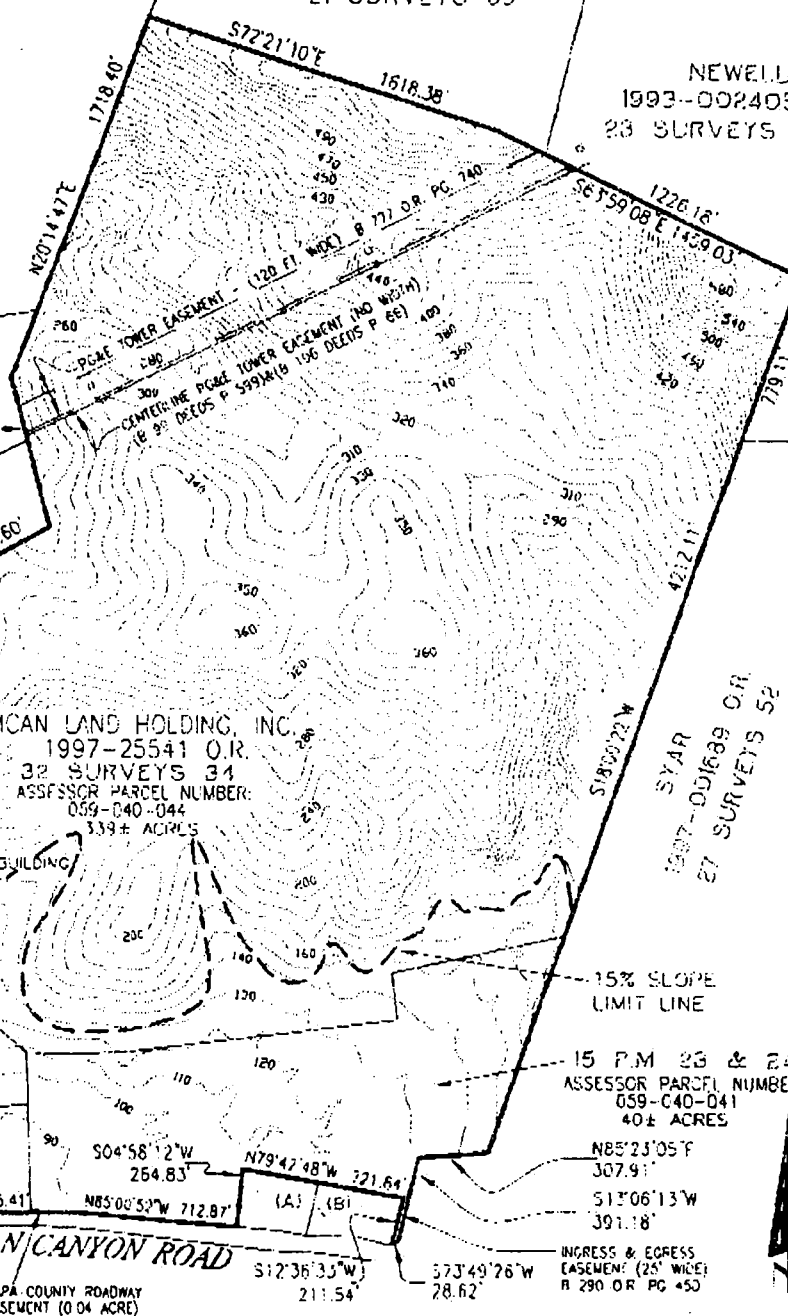
NEWELL
1993-002405 O.R.
23 SURVEYS 67-86

NEWELL
1993-039846 O.R.

NEWELL
1992-20029

N:4°34'50"W
706.77'

N67°13'14"E 1114.60'
N:05°05'56"E
1027.65'



AMCAN LAND HOLDING, INC.
1997-25541 O.R.
32 SURVEYS 34
ASSESSOR PARCEL NUMBER:
059-040-044
3.39 ± ACRES

ASSESSOR PARCEL NUMBER
059-040-043
5 ± ACRES

HOUSE

OUT BUILDING

N68°02'30"W
314.38'
R=1170.00'
L=337.87'
A=16°32'36"

S04°58'12"W
264.83'

N79°42'48"W 321.64'
N85°00'53"W 712.87'

15% SLOPE
LIMIT LINE

15 P.M. 23 & 24
ASSESSOR PARCEL NUMBER:
059-C40-D41
40 ± ACRES

N85°23'05"E
307.91'
S1°06'13"W
391.18'

INGRESS & EGRESS
EASEMENT (25' WIDE)
R 290 O.R. PG 450

NAPA COUNTY ROADWAY
EASEMENT (0.04 ACRE)
B 1484 O.R. PG 97

- (A) CHILDRENS HOSPITAL MEDICAL CENTER
OF NORTHERN CALIFORNIA
1613 O.R. 852
- (B) STUDEBAKER
1995-006479 O.R.

PG&E GAS PIPELINE
EASEMENT (10' WIDE)
B 66 O.R. PG 241

GHISLETTA
1485 O.R. 296

AMERICAN CANYON ROAD

Project Name: Lot Line Adjustment

Date: 2/14/00
Scale: 1" = 800'



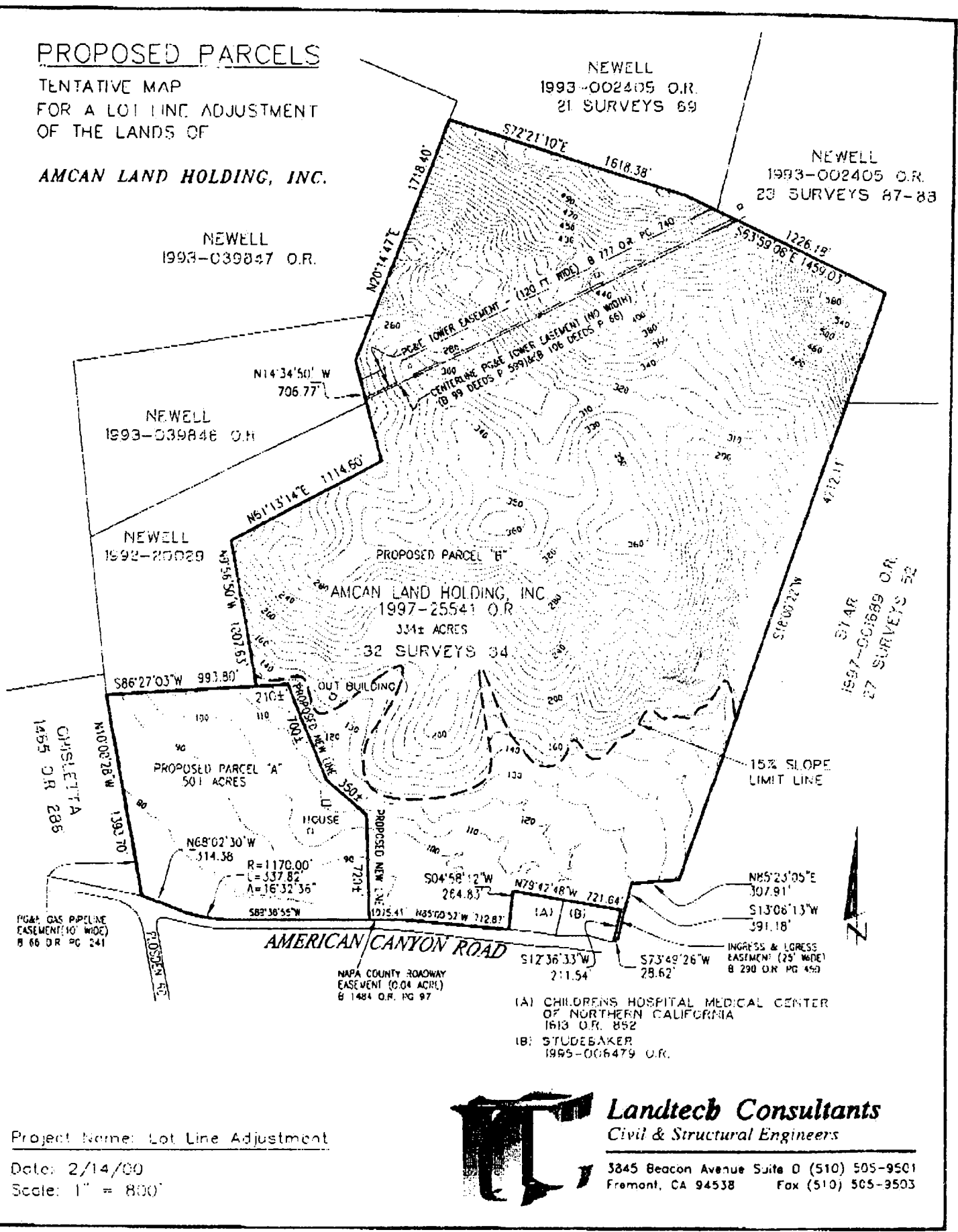
Landtech Consultants
Civil & Structural Engineers

3845 Beacon Avenue Suite D (510) 505-9501
Fremont, CA 94538 Fax (510) 505-9503

PROPOSED PARCELS

TENTATIVE MAP
FOR A LOT LINE ADJUSTMENT
OF THE LANDS OF

AMCAN LAND HOLDING, INC.



Project Name: Lot Line Adjustment

Date: 2/14/00
Scale: 1" = 800'



Landtech Consultants
Civil & Structural Engineers

3845 Beacon Avenue Suite D (510) 505-9501
Fremont, CA 94538 Fax (510) 505-9503

- (A) CHILDRENS HOSPITAL MEDICAL CENTER OF NORTHERN CALIFORNIA 1613 O.R. 852
- (B) STUDEBAKER 1985-006479 O.R.

EXHIBIT E



Local Agency Formation Commission
LAFCO of Napa County

Attachment Six
1700 Second Street, Suite 268
Napa, CA 94559
(707) 259-8645
FAX (707) 251-1053
<http://napa.lafco.ca.gov>

March 5, 2007
Agenda Item No. 8a

February 27, 2007

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer
Jacqueline Gong, Commission Counsel

SUBJECT: California Government Code §56133 (Discussion)

The Commission will review a report from staff regarding California Government Code §56133 and its role in approving new or extended services that are provided by contract or agreement outside an agency's jurisdictional boundary. The report is being presented for discussion.

On January 1, 1994, California Government Code §56133 was added to require cities and special districts to receive written approval from Local Agency Formation Commissions (LAFCOs) to provide new or extended services by contract or agreement outside their jurisdictional boundaries, but within their spheres of influence. G.C. §56133 was enacted by the Legislature to respond to cities and special districts circumventing the LAFCO process by extending services by contract instead of annexing the affected territory. Initial exemptions included agreements or contracts involving two or more public agencies and the transfer of non-potable or non-treated water. An additional exemption was added in 1999 allowing LAFCOs to approve the extension of new or extended services outside an agency's sphere of influence to address a public health or safety issue, and greater specificity regarding the exemption involving contracts or agreements between two or more public agencies was added in 2001. In 2003, the Legislature grandfathered the effective date of G.C. §56133 to January 1, 2001.

It has been the practice of LAFCO of Napa County not to require cities or special districts to receive Commission approval before providing new or extended services by contract or agreement outside their jurisdictional boundaries. This practice was established in 1994 and based on an initial review by the Commission of G.C. §56133, which originally included a broad exemption involving contracts or agreements involving two or more public agencies. Drawing from this original text, the Commission concluded that preexisting agreements between local agencies underlying outside service provision in the unincorporated areas were exempt under G.C. §56133. However, the exemption the Commission relied on in developing its aforementioned practice was amended in 2001 as part of the Cortese-Knox-Hertzberg Local Government Reorganization Act to become more restricted and is no longer applicable. This change in law coupled with increasing pressure for development in south Napa County requires that the Commission review its practice and policy regarding its role under G.C. §56133.

Jack Gingles, Chair
Mayor, City of Calistoga

Brad Wagenknecht, Vice-Chair
County of Napa Supervisor, 1st District

Brian J. Kelly, Commissioner
Representative of the General Public

Cindy Coffey, Commissioner
Councilmember, City of American Canyon

Bill Dodd, Commissioner
County of Napa Supervisor, 4th District

Vacant, Alternate Commissioner
Representative of the General Public

Juliana Inman, Alternate Commissioner
Councilmember, City of Napa

Mark Luce, Alternate Commissioner
County of Napa Supervisor, 2nd District

Keene Simonds
Executive Officer

This report outlines the history and development of out-of-agency service arrangements in south Napa County relating to sewer and water and also considers the options available to the Commission in addressing its obligations under G.C. §56133. Notably, the report focuses on the relationship between the City of American Canyon as a key service provider of both sewer and water in south Napa County and the County of Napa as the land use authority.¹ Staff is presenting the report for discussion and is seeking direction from the Commission regarding its preferences in addressing the issue of new and extended services in unincorporated south Napa County.

Background

Development and Timeline of G.C. §56133

On October 11, 1993, Governor Pete Wilson signed Assembly Bill 1335 (Mike Gotch) that included a number of amendments to the section of Government Code administered by LAFCO. This included the addition of G.C. §56133, which expanded the regulatory power of LAFCO by directing cities and special districts to begin receiving Commission approval to provide new or extended services by contract or agreement outside their jurisdictional boundaries, but within their spheres of influence. Prior to 1994, it was not uncommon for a city or special district to provide services outside its jurisdictional boundary after LAFCO had denied the annexation of the affected territory. With this in mind, G.C. §56133 was enacted to assist LAFCO in fulfilling its mandate to curtail urban sprawl by requiring service providers to come to LAFCO before extending service into the unincorporated area.

The original text of G.C. §56133 was concise and provide three specific exemptions: 1) contracts or agreements involving two or more public agencies; 2) contracts for the transfer of non-potable or non-treated water; and 3) contracts or agreements involving the provision of surplus water to agricultural lands. Following its enactment, several amendments were made to clarify LAFCO's role in regulating outside service provision under G.C. §56133. A summary of the key amendments follows.

- In 1997, Assembly Bill 637 (Barbara Alby) amended G.C. §56133 to exempt local publicly owned power utilities that provide electric services. (Effective January 1, 1998)
- In 1999, Senate Bill 807 (Committee on Agriculture and Water Resources) amended G.C. §56133 to allow LAFCO to authorize a city or special district to provide new or extended services outside its jurisdictional boundary and sphere of influence to respond to an existing or impending public health or safety issue. (Effective January 1, 2000)

¹ The Napa Sanitation District also provides sewer service in south Napa County north of Fagan Creek. However, all of the District's sewer services in south Napa County are provided within its jurisdictional boundary and sphere of influence.

- In 2000, Assembly Bill 2838 (Hertzberg) amended G.C. §56133 to restrict the original exemption involving contracts or agreements between two or more public agencies. This amendment specified that the exemption be allowed “where the public service to be provided is an alternate to, or substitute for, public services already provided an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.” (Effective January 1, 2001)
- In 2003, Assembly Bill 2227 (Jane Harman) amended G.C. §56133 to grandfather the effective date to January 1, 2001. (Effective January 1, 2003)

* A copy of the current text of G.C. §56133 is provided as Attachment A.

American Canyon: Incorporation and Special District Reorganizations

On January 1, 1992, the City of American Canyon was incorporated as a general-law city with an approximate resident population of 7,200. Prior to incorporation, the American Canyon area received municipal services from three special districts. Water and sewer was provided by the American Canyon County Water District (ACCWD), residential street lighting was provided by County Service Area (CSA) No. 1, and fire protection was provided by the American Canyon Fire Protection District (ACFPD). In approving the incorporation, the Commission merged and transferred all rights, duties, and obligations of ACCWD and CSA No. 1 to American Canyon. The Commission also established ACFPD as a subsidiary district of American Canyon, which transferred the governance of the District to the City Council.

In adopting an incorporated boundary for American Canyon, the Commission included all of the lands that were within the jurisdictional boundary of ACCWD with the exception of approximately 155 acres located immediately south of Fagan Creek in the South Kelly Road/Tower Road area. For administrative purposes, the Commission detached these 155 acres from ACCWD on the effective date of American Canyon’s incorporation and directed the County of Napa to proceed with forming a new CSA to provide sewer service to the area.² The Commission also specified that if the County failed to form a new CSA then American Canyon would assume ownership and control of sewer service operations within the affected 155 acres. Accordingly, because the County did not form a new CSA, American Canyon assumed control and ownership of sewer service operations within the South Kelly Road/Tower Road area.

² In incorporating American Canyon, the Commission did not directly address the issue of how new or extended water services would be provided in south unincorporated Napa County. However, as part of the Executive Officer report that was prepared during the incorporation proceedings, staff indicated its expectations that those future water service connections in the unincorporated area would require out-of-agency service agreements between American Canyon and affected property owners.

American Canyon: Successor Agency

As the successor agency to ACCWD, American Canyon inherited existing sewer and water service customers located outside its incorporated boundary.³ Also passed to American Canyon from ACCWD were a number of contracts and agreements. This included two agreements involving the Napa Sanitation District (NSD) and the Napa County Flood Control and Water Conservation District (NCFCWCD) that established locally defined sewer and water service areas for ACCWD, respectively. Based on these two agreements, as successor agency, it has been the practice of American Canyon to provide sewer and water services to new development within these locally defined areas through agreements (will-serve letters) with affected property owners. A summary of both agreements follows.

- Sewer: In 1982, ACCWD and NSD formalized a long-standing practice by adopting resolutions designating Fagan Creek as the boundary separating each agency's respective sewer services in south Napa County. As successor agency to ACCWD, this agreement defines a local sewer service area for American Canyon that includes all lands south of Fagan Creek, east of the Napa River, and west and north of Solano County. In 1998, as part of a dissolution agreement to a joint-powers arrangement, the two agencies reaffirmed Fagan Creek as the delimitation of their respective sewer service areas. This dissolution agreement also identified Fagan Creek as the delimitation involving future recycled water services between the two agencies.
- Water: In 1966, ACCWD entered into a water supply agreement with NCFCWCD for annual entitlements to the State Water Project. This agreement specified that ACCWD shall supply water to lands located south of Soscol Ridge, east of the Napa River, and west and north of Solano County. As successor agency to ACCWD, American Canyon has inherited its annual entitlement to water drawn from the State Water Project as well as its locally defined water service area.
- * A map depicting the sewer and water service areas inherited by American Canyon as a result of ACCWD's earlier agreements with NSD and NCFCWCD is provided as Attachment B.
- * A map depicting the jurisdictional boundary and sphere of influence of ACCWD before its merger with American Canyon is provided as Attachment C.

³ It appears that most of these outside customers were located within the aforementioned 155 acres of unincorporated land located immediately south of Fagan Creek that had been jurisdictionally part of ACCWD prior to its merger with American Canyon. Because it was not required of cities or special districts prior to 1994, LAFCO does not have records identifying whether ACCWD had entered into service agreements outside of its jurisdictional boundary.

DiscussionIntent of G.C. §56133

The legislative intent of G.C. §56133 is to strengthen the ability of LAFCOs to fulfill their mandate to promote the orderly development of local agencies and to discourage urban sprawl. As noted, G.C. §56133 was enacted in response to cities and special districts circumventing the LAFCO process by providing new or extended services outside their jurisdictional boundaries by contract instead of annexing the affected territory. G.C. §56133 reinforces the meaning of an agency's adopted jurisdictional and sphere boundaries, which represent the Commission's principal tools in planning for future growth.

New or Extended Services

In addressing the matter of G.C. §56133, it is important to note that its provisions pertain only to new and extended outside services. Services extended before January 1, 2001 are specifically exempt and are not within the purview of the Commission. Drawing from this distinction, the Commission's review of outside services as it relates to G.C. §56133 is predicated upon first defining a "new" or "extended" service. It is the general practice of LAFCO to administratively interpret new and extended services to involve the actual delivery of services or the intensification of services to a specific property.

In preparing this report, the County of Napa has conveyed to LAFCO its view that the agreement the City of American Canyon inherited between ACCWD and NCFWCWD for annual water entitlements to the State Water Project establishes an obligation for the City to provide water south of the Soscol Ridge. The County asserts this agreement already provides for the extension of water service by American Canyon within the affected area and thus is an extended service that predates January 1, 2001 and as such is not subject to G.C. §56133.

Constitutional Provision

Also in the course of preparing this report staff has become aware of a potential inconsistency between G.C. §56133 and the California Constitution. Specifically, Article 11, Section 9 of the California Constitution states that a "municipal corporation" may establish and provide light, water, power, heat, and transportation outside its boundaries. Absent judicial resolution of this issue, it is the general consensus of most LAFCOs to defer and apply G.C. §56133 when cities seek to provide new or extended water service outside their incorporated boundaries. However, in applying G.C. §56133, a LAFCO is vulnerable to a constitutional challenge from a city or other interested party.

* A copy of Article 11, Section 9 of the Constitution is provided as Attachment F.

AnalysisIntent of G.C. §56133

The enactment of G.C. §56133 reflects the policy of the Legislature that the Commission participate in the decision-making process involving the extension of services in unincorporated areas. Although annexations to cities and special districts are generally preferred for providing services, LAFCO law and staff recognize that out-of-agency service agreements can be appropriate alternatives in addressing local conditions and circumstances. Where the extension of service to an unincorporated area is appropriate, a challenge for all LAFCOs is determining whether the extension should be the result of an annexation, a concurrent annexation and sphere amendment, or an out-of-agency service agreement. An additional challenge for this Commission with regard to addressing its obligations under G.C. §56133 in south Napa County is taking into account local conditions and circumstances that are the result of the City of American Canyon serving as the successor agency to ACCWD.

Past LAFCO Practice

It has been the practice of the Commission to acknowledge that American Canyon's sewer service area extends outside its incorporated boundary north to Fagan Creek based upon the agreement the City inherited between ACCWD and NSD. It has also been the practice of the Commission to acknowledge that American Canyon's water service area extends outside its incorporated boundary north to Soscol Ridge based upon the agreement the City inherited between ACCWD and NCFWCWD. As previously noted, these practices were drawn from an initial review by the Commission of G.C. §56133, which originally provided a broad exemption involving contracts or agreements involving two or more public agencies. Drawing from this original text, the Commission concluded that the existing agreements between local agencies underlying outside service provision in the unincorporated areas were exempt under G.C. §56133. However, as noted earlier, this exemption was amended in 2001 to become more restricted and is no longer applicable.

New and Extended Services

In the absence of an adopted definition, it is the presumption of staff that new or extended services under C.G. §56133 occurs when actual services are delivered or measurably increased to accommodate a change or intensification of land use for a specific and identifiable property. With this in mind, staff is presuming that any unincorporated properties that are not already receiving service, or that currently receive service but will experience a change or intensification in land use, are subject to the provisions of G.C. §56133 as of its effective date of January 1, 2001. However, in addressing local conditions and circumstances in south Napa County, staff recognizes that any developed or undeveloped properties that were located within the jurisdictional boundary of ACCWD before its merger with the City of American Canyon are not subject to LAFCO review under G.C. §56133.

Staff acknowledges the County of Napa's view that the 1966 agreement American Canyon inherited between ACCWD and NCFCWCD provides for the extension of water service by the City south of Soscol Ridge and is not subject to G.C. §56133. The issue of how to address and reconcile the agreement between American Canyon and NCFCWCD and the provisions of G.C. §56133 is a key challenge for LAFCO with long-term policy implications. It is the perspective of staff that the two issues, the NCFCWCD agreement and G.C. §56133, are not mutually exclusive. American Canyon can provide services to the lands south of Soscol Ridge as anticipated under its inherited NCFCWCD agreement while LAFCO can prescribe the manner and timing of when those services are extended.

Constitutional Provision

The provision under the California Constitution specifying that cities are authorized to provide water, light, power, heat, and transportation outside their incorporated boundaries creates an uncertainty with respect to the extent that LAFCOs can enforce G.C. §56133. However, until case law is established, it would appear reasonable and appropriate for LAFCOs to cautiously defer to G.C. §56133 under the tenet that it prescribes and regulates the constitutional right of a city to serve outside its incorporated boundary.

Commission Options

Drawing from the foregoing discussion and analysis, staff has identified five broad options for the Commission to consider specifically as it relates to addressing its role under G.C. §56133 in south Napa County. These options are being presented for discussion only and are briefly summarized and evaluated below.

- **Option A: General Enforcement**

The Commission would require that all affected agencies in south Napa County, including American Canyon and the Napa Sanitation District, submit requests to provide new or extended services by agreement or contract outside their jurisdictional boundaries, but within their spheres. Under this option, the Commission would consider concurrent annexation and sphere of influence amendments if the proposed out-of-agency agreement involved territory outside the affected agency's sphere. Exemptions would include agreements between two or more public agencies under specific conditions, the transfer of non-potable or non-treated water, or a public health or safety issue.

| <u>Advantages</u> | <u>Disadvantages</u> |
|--|---|
| <ul style="list-style-type: none"> • Consistent with G.C. §56133. | <ul style="list-style-type: none"> • Does not address local conditions and circumstances underlying service arrangements that were established prior to C.G. §56133. |

- Would create an unknown impact on the County of Napa in securing municipal services for planned development in south Napa County as contemplated in its General Plan.
- Would require that LAFCO expend considerable staff resources to administer.

- **Option B: Sphere of Influence Amendments**

The Commission would amend the spheres of influence for all affected agencies in south Napa County, including American Canyon and the Napa Sanitation District, to encompass their locally defined service areas. All other components of Option A would apply.

Advantages

- Consistent with G.C. §56133.
- Would help formalize service provision in south Napa County.
- Would clarify where LAFCO would be inclined to allow services to be provided in south Napa County.

Disadvantages

- Does not address local conditions and circumstances underlying service arrangements that were established prior to G.C. §56133.
- Would diminish the meaning and intent of spheres of influence as they relate to signaling future growth and annexation by the affected agencies.
- Would likely create conflicts for LAFCO in terms of applying this same policy with other agencies in Napa County as it relates to promoting orderly and logical development.

- **Option C: County Service Area**

The Commission would encourage the County of Napa to either seek activation of County Service Area No. 3's latent sewer and water service powers or create a new county service area in south Napa County. The affected agency would either contract for sewer (south of Fagan Creek) and water services with another public agency, such as American Canyon, or provide services directly.

| Advantages | Disadvantages |
|---|--|
| <ul style="list-style-type: none"> • Consistent with G.C. §56133. • Would help formalize service provision in south Napa County. • Would be consistent with the original purpose of CSA No. 3 at the time of its formation in 1978. • Would qualify as an exemption under G.C. §56133(e) and would not require LAFCO to approve any corresponding arrangements for new or extended services within the affected agency's jurisdictional boundary. | <ul style="list-style-type: none"> • Would create additional and unknown administrative and operational costs for the County of Napa. • Effectiveness would be dependent on the ability of the affected agency to contract or develop sufficient water supplies. |

- **Option D: Local Policy – Reconciliation**

The Commission would establish a local policy to reconcile the provisions of G.C. §56133 with the sewer and water service areas inherited by American Canyon as successor agency to American Canyon County Water District. A local policy would recognize and allow American Canyon to provide new or extended sewer (south of Fagan Creek) and water (south of Soscol Ridge) services by contract or agreement outside its jurisdictional and sphere boundaries while allowing for Commission review and approval, either through a comprehensive or individual arrangement.⁴

| Advantages | Disadvantages |
|--|--|
| <ul style="list-style-type: none"> • Would reconcile the provisions of G.C. §56133 with local conditions and circumstances underlying service arrangements that were established prior the code section's enactment in 1994. • Would formally recognize the sewer and water service areas inherited by American Canyon as successor agency to ACCWD. | <ul style="list-style-type: none"> • Effectiveness would be dependent on all affected agencies agreeing to follow a local policy. |

⁴ The Napa Sanitation District's jurisdictional boundary includes all unincorporated lands north of Fagan Creek that are designated for an urban use by the County of Napa as the affected land use authority. This includes a significant portion of CSA No. 3.

⁵ LAFCO Resolution No. 03-34.

- Would help formalize service provision in south Napa County.
 - Would be consistent with an underlying tenet of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that LAFCO consider local conditions and circumstances.
 - Would be consistent with a written determination that was adopted as part of LAFCO's *Comprehensive Water Service Study*.⁵
- **Option E: Local Policy – Preexisting New and Extended Services**
The Commission would establish a local policy determining that the 1966 agreement that the City of American Canyon inherited between ACCWD and NCFCWCD adequately establishes the extension of water service by the City south of Soscol Ridge and is not subject to G.C. §56133.

| Advantages | Disadvantages |
|--|--|
| <ul style="list-style-type: none"> • Would formally recognize local conditions and circumstances underlying water service arrangements that were established prior to the enactment of G.C. §56133. • Would be consistent with the past practice of LAFCO to acknowledge the water service area inherited by American Canyon as the successor agency to ACCWD. | <ul style="list-style-type: none"> • Would diminish the intent of G.C. §56133 for LAFCOs to be part of the decision-making process involving the extension of outside services into unincorporated territory. • Would remove LAFCO from any future review of future outside service arrangements in south Napa County. • Establishes a policy precedent that LAFCO would apply to similar agreements involving NCFCWCD in Napa County with unknown consequences. • Does not address the issue of outside sewer service as it relates to G.C. §56133. |

Summary

All five options discussed in this report present different advantages and disadvantages for the Commission in meeting its obligations under G.C. §56133 as it relates to south Napa County. Because no specific application for an out-of-agency agreement has been submitted to LAFCO, staff does not offer a recommendation and has limited its analysis to general comments aimed at highlighting policy issues. Towards this end, summary comments for the five options discussed in this report follows.

- Option A (General Enforcement) and Option B (Sphere Amendments) do not appear to be appropriate alternatives because they do not address local conditions and circumstances underlying service arrangements in south Napa County that were established prior to G.C. §56133. Additionally, Option A would create an unknown financial impact on the County of Napa in securing municipal services for planned and orderly development in south Napa County, while Option B would diminish the meaning and intent of spheres as they relate to signaling future growth and annexation by the affected agencies.
- Option C (County Service Area) would formalize service provision in unincorporated south Napa County and reflect the original purpose in forming CSA No. 3. However, this alternative would create unknown administrative and operational costs and is dependent on a number of externalities, such as contracting or developing an adequate water supply.
- Option D (Local Policy – Reconciliation) appears to be the preferred alternative because it would reconcile the provisions of G.C. §56133 with preexisting local conditions and circumstances. However, the effectiveness of this option is dependent on all affected agencies agreeing to work together in developing and following a local policy.
- Option E (Local Policy – Preexisting New and Extended Services) would be consistent with the past practice of LAFCO to acknowledge the water service area American Canyon inherited upon its incorporation from ACCWD. However, this option does not address the issue of sewer and would diminish the intent of G.C. §56133 for LAFCOs to be part of the decision-making process involving the provision of outside services into unincorporated areas.

Commission Discussion

This report is being presented to the Commission for discussion. Staff is seeking direction from the Commission regarding its preferences in addressing its practice and policy under G.C. §56133 as it relates to south Napa County. Following the meeting, staff will circulate a copy of this report for review to the County of Napa, City of American Canyon, and the Napa Sanitation District and will convey any direction received from the Commission.

California Government Code §56133

March 5, 2007

Page 12 of 12

Attachments:

- A) California Government Code §56133
- B) Map of the City of American Canyon (depicting inherited sewer and water service areas)
- C) Map of the American Canyon County Water District (at time of merger)
- D) Map of the City of American Canyon and County Service Area No. 3
- E) Map of the City of American Canyon and the Napa Sanitation District
- F) Article 11, Section 9 of the California Constitution

California Government Code Section 56133

(a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.

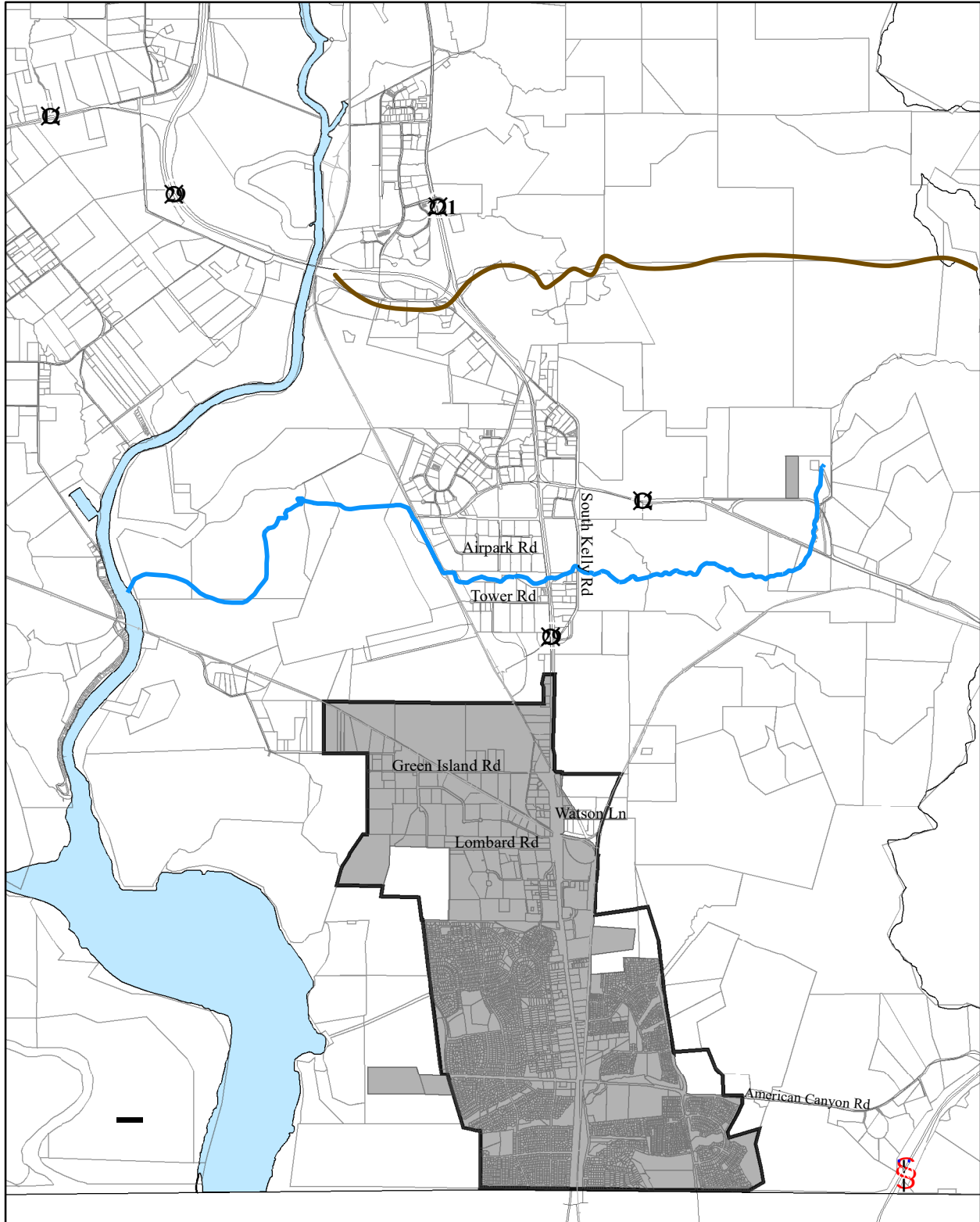
(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

- (1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.
- (2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.




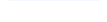


(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on or before January 1, 2001. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

City of American Cayon



Legend

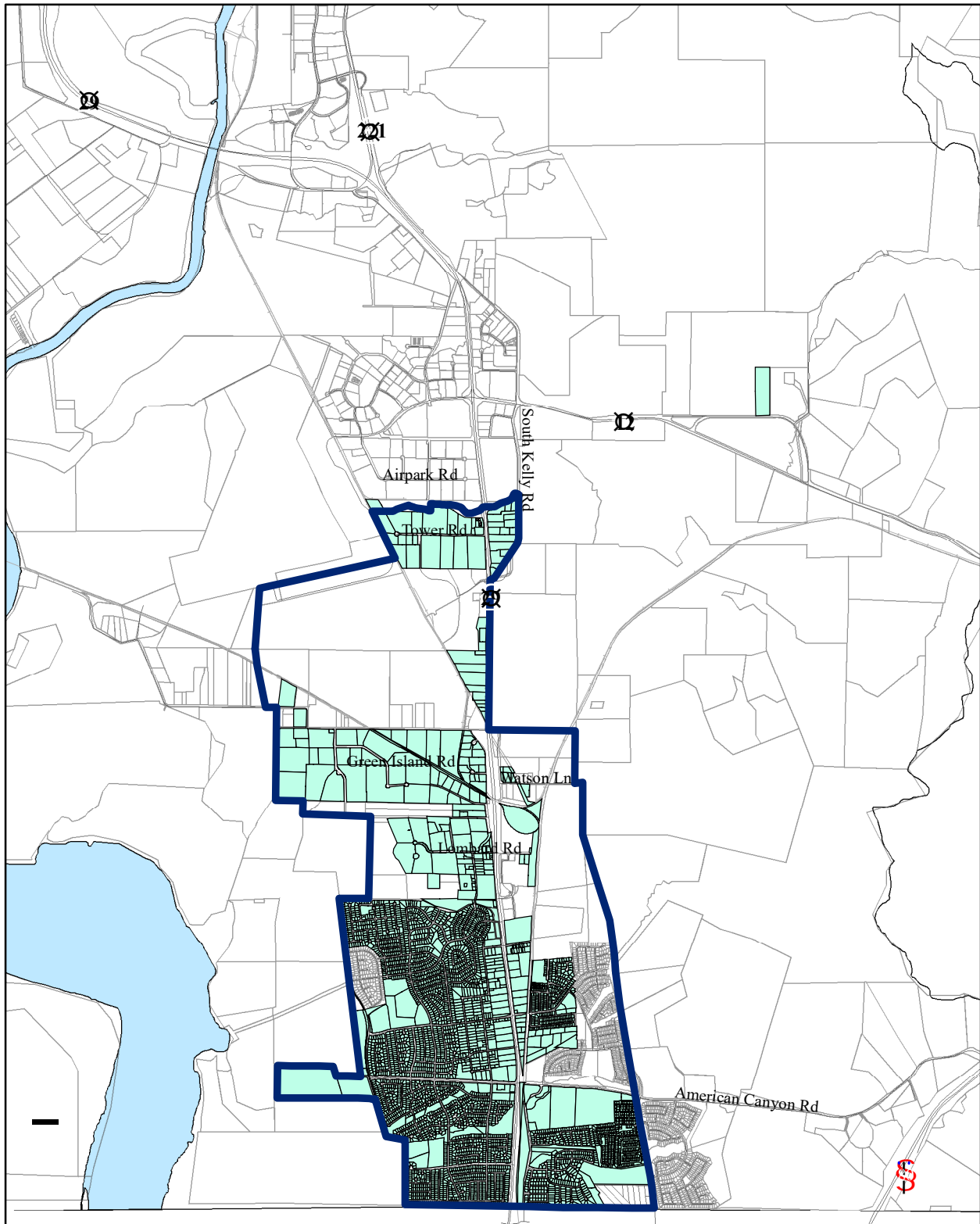
-  City of American Canyon
-  City of American Canyon Sphere of Influence
-  Fagan Creek
-  Area to the south represents American Canyon's inherited sewer service area
-  Socol Ridge (approximate location)
-  Area to the south represents American Canyon's inherited water service area

*Not to Scale
February 2007
Prepared by KS*

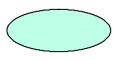



LAFCO of Napa County
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(707) 259-8645

American Canyon County Water District



Legend

-  ACCWD Jurisdictional Boundary
-  ACCWD Sphere of Influence

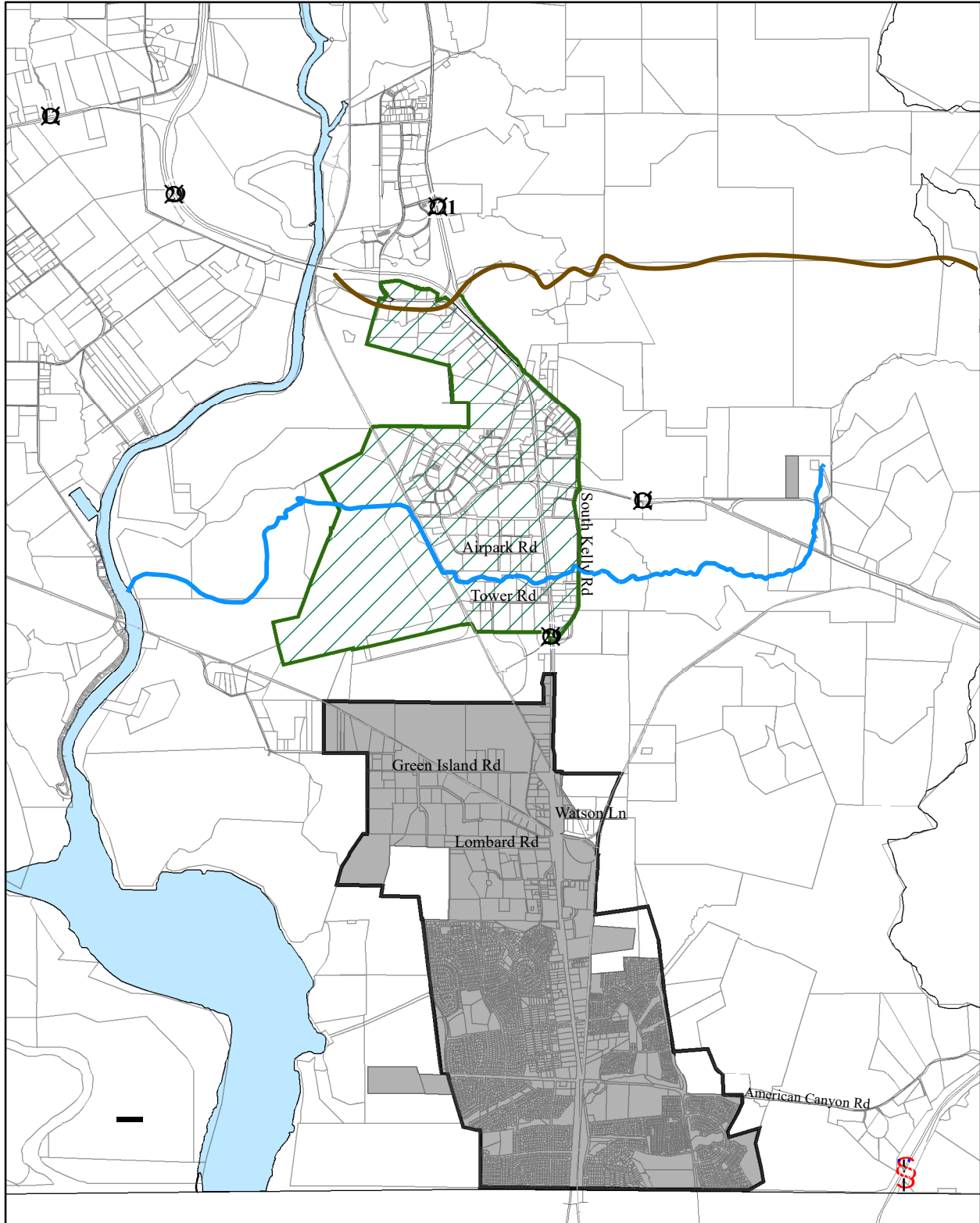
ACCWD's jurisdictional boundary and sphere of influence depicted are GIS-based recreations of an original 40"x42" map available for viewing at the LAFCO office.

*Not to Scale
February 2007
Prepared by KS/TLG*










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Napa, CA 94559
(707) 259-8645

City of American Canyon County Service Area No. 3



Legend

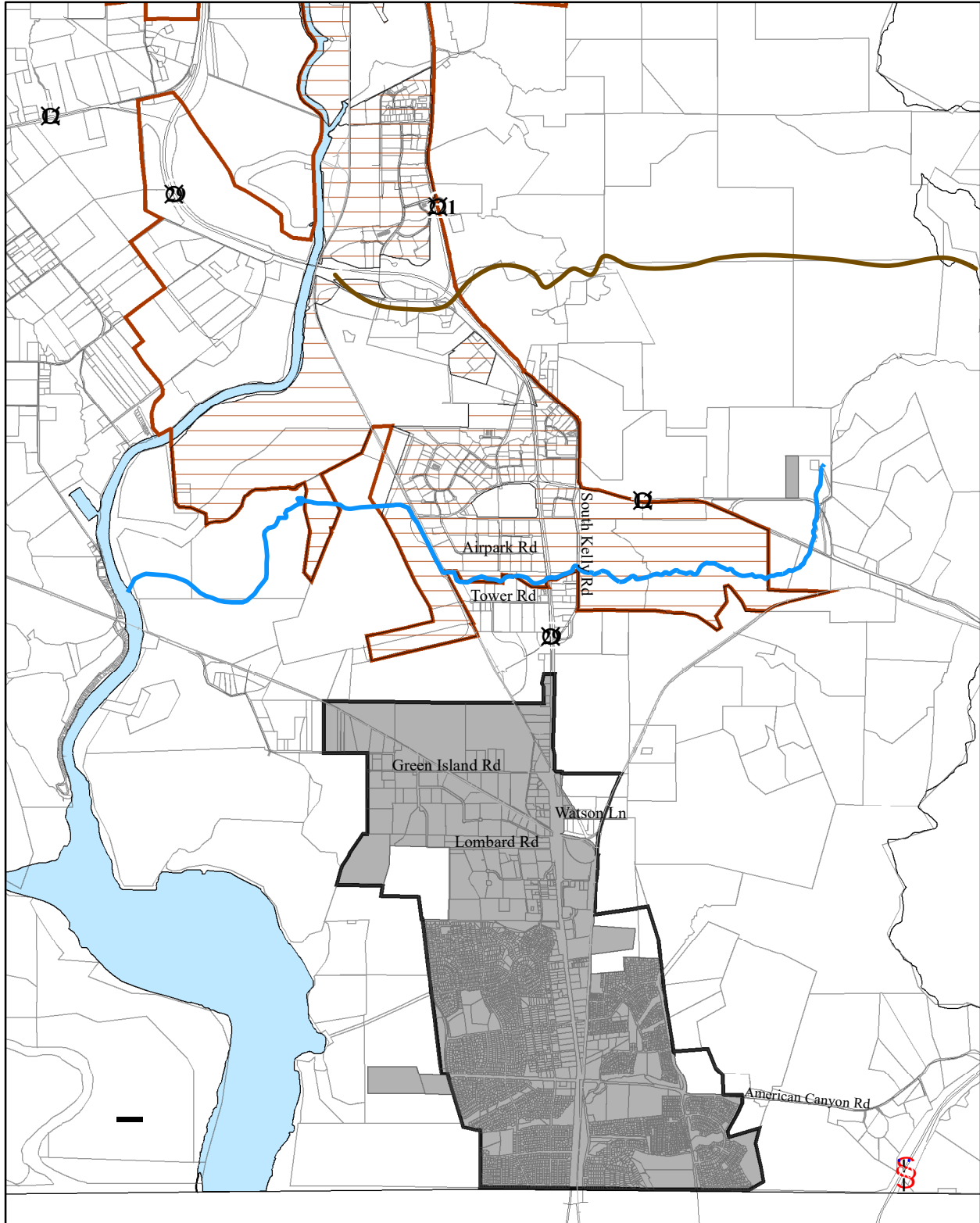
- | | | | |
|---|---|---|---|
|  | City of American Canyon |  | County Service Area No. 3 |
|  | City of American Canyon Sphere of Influence |  | County Service Area No. 3 Sphere of Influence |
|  | Fagan Creek | | |
|  | Area to the south represents American Canyon's inherited sewer service area | | |
|  | Soscold Ridge (approximate location) | | |
| | Area to the south represents American Canyon's inherited water service area | | |

*Not to Scale
February 2007
Prepared by KS*






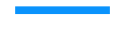


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City of American Canyon Napa Sanitation District



Legend

- | | | | |
|---|---|---|---|
|  | City of American Canyon |  | Napa Sanitation District |
|  | City of American Canyon Sphere of Influence |  | Napa Sanitation District Sphere of Influence |
|  | Fagan Creek | | |
| | Area to the south represents American Canyon's inherited sewer service area | | |
|  | Soscol Ridge (approximate location) | | |
| | Area to the south represents American Canyon's inherited water service area | | |

*Not to Scale
February 2007
Prepared by KS*



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EXHIBIT F



Local Agency Formation Commission
LAFCO of Napa County

Attachment Six
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October 1, 2007
Agenda Item No. 7a

September 19, 2007

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer
Jacqueline Gong, Commission Counsel

SUBJECT: California Government Code §56133 (Action)

The Commission will receive a report evaluating two policy options addressing its role as it relates to the City of American Canyon providing water and sewer services outside its jurisdictional boundary under California Government Code §56133. The Commission will consider draft resolutions adopting one of the two policy options.

California Government Code (G.C.) §56133 directs cities and special districts to receive written approval from Local Agency Formation Commissions (LAFCOs) to provide new or extended services by contract or agreement outside their jurisdictional boundaries. G.C. §56133 was enacted by the Legislature in 1993 in response to cities and special districts circumventing LAFCO by contractually extending services outside their jurisdictions to property owners instead of annexing the affected lands. LAFCOs are restricted to approving agency requests to extend services outside their spheres of influence only to address threats to public health and safety. In 2003, the Legislature grandfathered the effective date of G.C. §56133 to January 1, 2001.

The intent of G.C. §56133 is to strengthen the ability of LAFCOs to fulfill their mandate to plan the orderly formation and development of local governmental agencies in a manner that protects agricultural and open-space resources and discourages urban sprawl. G.C. §56133 also reflects the desire of the Legislature that LAFCOs participate in the decision-making process with respect to the extension of governmental services in unincorporated areas. Administering G.C. §56133, however, remains challenging because the statute as currently written limits the discretion of LAFCOs in approving otherwise logical extension of services that are appropriate given local conditions.

This report evaluates two separate policy options aimed at addressing the role of the Commission under G.C. §56133 as it relates to the City of American Canyon entering into contracts or agreements to provide water and sewer services outside its jurisdiction, hereinafter referred to as “outside services.” These options were outlined and briefly reviewed as part of an earlier report presented at the March 5, 2007 meeting. Staff has expanded its outline and review of both options and offers a recommendation for Commission consideration.

Jack Gingles, Chair
Mayor, City of Calistoga

Brad Wagenknecht, Vice-Chair
County of Napa Supervisor, 1st District

Brian J. Kelly, Commissioner
Representative of the General Public

Juliana Inman, Commissioner
Councilmember, City of Napa

Bill Dodd, Commissioner
County of Napa Supervisor, 4th District

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Cindy Coffey, Alternate Commissioner
Councilmember, City of American Canyon

Mark Luce, Alternate Commissioner
County of Napa Supervisor, 2nd District

Keene Simonds
Executive Officer

Background

At the March 5, 2007 meeting, staff presented a report to the Commission regarding an inconsistency between the provisions of G.C. §56133 and the current practices underlying outside water and sewer services in unincorporated south Napa County. The inconsistency, which was initially highlighted in two recent municipal service reviews, is generated by American Canyon providing what appears to constitute new and extended outside services without Commission approval. The source of the inconsistency is drawn from American Canyon serving as successor agency to the American Canyon County Water District (ACCWD). Specifically, as successor agency, American Canyon has inherited agreements defining water and sewer service areas for the City that extend beyond its jurisdiction and sphere.

The March report noted the established practice of the Commission is not to require American Canyon to receive approval in providing new or extended outside water and sewer services based on an initial reading of G.C. §56133. Markedly, at the time enacted, G.C. §56133 included a broad exemption involving contracts or agreements involving two or more public agencies under subsection (e). Drawing on this original text, the Commission concluded that American Canyon could continue to provide new or extended outside water and sewer services based on the agreements it inherited with Napa County Flood Control and Water Conservation District (NCFWCWD) and the Napa Sanitation District (NSD).¹ These agreements establish “agency-defined” water and sewer service areas for American Canyon that extend north of its jurisdiction and sphere to Soscol Ridge and Fagan Creek, respectively, and include properties located in the Napa County Airport Industrial Area Specific Plan.²

In 2001, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 was enacted and made substantial changes to LAFCO law. This included amending G.C. §56133 to restrict the exemption under subsection (e) to instances where “the services to be provided are an alternative or substitute for services that are already being provided.” Substantively, the amendment precludes the Commission from continuing its established practice because several properties in American Canyon’s agency-defined service areas remain without water or sewer service.

¹ At its February 9, 1994 meeting, the Commission received a report from staff regarding the changes in LAFCO law resulting from the implementation of Assembly Bill 1335, including the enactment of G.C. §56133. The staff report was presented for information and did not make any specific comments or recommendations regarding the application of G.C. §56133 in Napa County. On February 23, 2007, staff contacted former LAFCO Executive Officer Charles Wilson to discuss the Commission’s initial review of G.C. §56133. Mr. Wilson stated that the Commission did discuss and conclude that the agreement American Canyon inherited with the NCFWCWD authorized the City to continue to provide extraterritorial water service north to Soscol Ridge without LAFCO approval under G.C. §56133 based on the exemption involving agreements between two or more public agencies. Although he did not recall any specific discussions regarding sewer provision, Mr. Wilson believes that the Commission did discuss and conclude that the agreement between American Canyon and NSD also authorized the City to continue to provide extraterritorial sewer service north to Fagan Creek without LAFCO approval.

² American Canyon’s agreement with NSD designating Fagan Creek as the boundary line between their respective sewer service areas was established in practice in the 1960s. In 1983, ACCWD and NSD adopted similar resolutions requesting the Commission designate each agency’s sphere to reflect Fagan Creek as the dividing line between their sewer service areas. In 1994, as part of a dissolution agreement involving the Napa-American Canyon Wastewater Management Authority, American Canyon and NSD further formalized and expanded the above-referenced agreement by specifying that Fagan Creek serve as the dividing line between each agency’s sewer and recycled water service areas.

With the goal of initiating discussion and identifying preferences, the March report outlined five broad options for the Commission in addressing its role as it relates to American Canyon providing outside water and sewer services under G.C. §56133. Options outlined in March ranged from strict enforcement of G.C. §56133 to adopting a policy to exempt American Canyon from requiring Commission approval. All five options were briefly analyzed in terms of advantages and disadvantages as well as possible policy outcomes. At the conclusion of its discussion, the Commission directed staff to further develop and evaluate the two options proposing local policies, identified as Options “D” and “E.”

Discussion

Options D and E represent distinct policy alternatives that provide measurably different roles for the Commission in administering G.C. §56133. Options D and E would both incorporate local conditions recognizing American Canyon as the primary water and sewer service provider in unincorporated south Napa County.³ However, Option D establishes a role for the Commission in authorizing American Canyon to continue to provide new or extended outside services. Option D also provides controls against the extension of outside services in agricultural and open-space designated lands. In contrast, Option E determines that American Canyon does not require Commission approval to continue to provide outside services within the service areas defined in its agreements with NCFCWCD and NSD because they are not considered new or extended under G.C. §56133. Expanded summaries of both options follow.

Option D

The Commission would establish a policy allowing American Canyon to continue to provide new or extended outside water and sewer services based upon LAFCO review and approval. Approval would be granted either through a comprehensive (area-wide) or incremental (individual application) approach. Specific components comprising Option D are outlined below.

- The Commission would adopt a water service area for American Canyon. The water service area would be distinct from American Canyon’s sphere and generally reflect its agreement with NCFCWCD, but exclude lands designated for non-urban use under the current County General Plan.
- The Commission would adopt a sewer service area for American Canyon. The sewer service area would be distinct from American Canyon’s sphere and generally reflect its agreement with NSD, but exclude lands designated for non-urban use under the current County General Plan.

³ NSD provides sewer service in south unincorporated Napa County north of Fagan Creek. NSD’s sewer services in south unincorporated Napa County are contained within its jurisdictional boundary.

- American Canyon would be restricted from providing new or extended outside water and sewer services beyond its service areas defined by LAFCO. Individual exemptions would be considered by the Commission in response to special circumstances.
- The Commission would recognize and designate American Canyon as the appropriate public water and sewer service provider within its service areas defined by LAFCO. The Commission would also recognize that American Canyon may establish terms and conditions relating to the provision of new or extended outside services within its service areas.
- The Commission would determine that the provision of new or extended outside water and sewer services by American Canyon within its service areas defined by LAFCO abates potential threats to public health and safety.
- If a comprehensive approach is preferred, as part of an area-wide approval, the Commission would authorize American Canyon to provide new or extended outside water and sewer services within its service areas defined by LAFCO. Approval would be based upon information analyzed and determinations adopted by the Commission as part of the *Comprehensive Water Service Study* (2004) and *Comprehensive Study of Sanitation and Wastewater Treatment Providers* (2006). These determinations collectively state that American Canyon has established adequate service capacities and administrative controls to provide an adequate level of water and sewer within its service areas.
- If an incremental approach is preferred, the Commission would authorize American Canyon to provide new or extended outside water and sewer services within its service areas defined by LAFCO on an application-by-application basis. The applicant would pay the costs of processing the application as specified in the Commission's Schedule of Fees and Deposits. The Executive Officer would prepare a report on the application with a recommendation for Commission consideration at a public meeting. LAFCO would use the following definitions for new and extended services:

“New” services would be triggered with the extension of water or sewer to previously unserved land.

“Extended” services would be triggered with the intensification of water or sewer uses to previously served land as a result of redesignation or rezoning by the affected land use authority.

Option E

The Commission would establish a policy determining that American Canyon does not require approval under G.C. §56133 to continue to provide outside water or sewer services within the service areas defined in its agreements with NCFWCWD and NSD. This policy would be premised on the Commission determining that American Canyon's agreements with NCFWCWD and NSD adequately provides for the provision of water and sewer within its agency-defined service areas, and is therefore not considered new or extended under G.C. §56133.

- * Staff has expanded the scope of Option E from the original outline presented to the Commission in March. Specifically, the March report outlined a policy determining that American Canyon does not require Commission approval to provide outside water services based on the City's agreement with NCFCWCD. In preparing this report, staff has expanded the scope of Option E to further exempt American Canyon from Commission approval with respect to providing outside sewer services based on the City's agreement with NSD defining Fagan Creek as the dividing line between their respective sewer service areas. This addition reflects staff's determination that both agreements are similar in terms of equally contemplating that American Canyon, as successor agency to ACCWD, will provide future water and sewer within its agency-defined service areas.

Analysis

As mentioned, Options D and E reflect separate policy alternatives for the Commission to clarify its role in addressing the inconsistencies between the provisions of G.C. §56133 and the current practices of American Canyon in providing outside water and sewer services. The key components as well as advantages and disadvantages underlying these options, including distinguishing between comprehensive or incremental approval under Option D, are summarized below.

Option D (Comprehensive Approval)

The Commission establishes water and sewer service areas for American Canyon that are distinct from its sphere and exclude lands designated for non-urban use under the current County General Plan. The Commission authorizes American Canyon to provide new or extended outside water and sewer services within these service areas without further review by determining the City has adequate service capacities and administrative controls.

Advantages

- Reconciles the provisions of G.C. §56133 with local conditions and circumstances underlying outside water and sewer service arrangements inherited by American Canyon at the time of its incorporation in 1992.
- Establishes water and sewer service areas for American Canyon that are generally consistent with its agreements with NCFWCWD and NSD.

- Is compatible with the County's expectation as the affected land use authority that American Canyon is the designated public water and sewer provider for unincorporated lands north to Soscol Ridge and Fagan Creek, respectively.
- Provides effective controls for the Commission to fulfill its mandate to discourage the expansion of governmental services to agricultural and open-space designated lands.
- Is consistent with written determinations adopted as part of the Commission's *Comprehensive Water Service Study* and *Comprehensive Study of Sanitation/Wastewater Treatment Providers*.
- Is consistent with an underlying tenet of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that the Commission consider local conditions and circumstances in planning the orderly formation and development of governmental agencies and services.

Disadvantages

- Eliminates opportunities for the Commission to individually examine capacities and controls for American Canyon relating to the timing of new or extended water and sewer services within its service areas defined by LAFCO.
- Creates uncertainties with respect to potential conflicts with Article 11, Section 9 of the California Constitution by establishing restrictions on the ability of American Canyon to provide water service outside its jurisdiction.⁴

Option D (Incremental Approval)

The Commission establishes water and sewer service areas for American Canyon that are distinct from its sphere and exclude lands designated for non-urban use under the current County General Plan. The Commission authorizes American Canyon to provide new or extended services within these service areas on an application-by-application basis.

Advantages

- Along with the advantages listed under comprehensive approval, the incremental approach allows the Commission to individually examine American Canyon's capacities and controls in providing new or extended outside water or sewer services to lands within its service areas defined by LAFCO. This would provide greater controls for the Commission in determining whether the timing of new or extended services is appropriate.

⁴ Article 11, Section 9 of the California Constitution states that a "municipal corporation" may establish and provide light, water, power, heat, and transportation services outside its boundaries. There is no case law addressing the potential conflict between this constitution provision and G.C. §56133.

Disadvantages

- Along with the disadvantage listed under the comprehensive approval relating to potential conflict with the constitutional authority of the City to provide services, the incremental approach requires the Commission expend considerable resources to administer. Incremental approval also requires the Commission establish evaluation standards in reviewing application requests under G.C. §56133.

Option E

The Commission determines that American Canyon does not require approval under G.C. §56133 in providing outside water or sewer within its service areas defined in its agreements with NCFWCWD and NSD. The Commission determines that these agreements adequately provide for American Canyon to deliver outside water and sewer services within its agency-defined service areas and are not considered new or extended under G.C. §56133.

Advantages

- Effectively formalizes the established practice of the Commission not to require American Canyon to receive LAFCO approval to provide outside water and sewer services within its agency-defined service areas.
- Eliminates the need to dedicate Commission resources to administer.
- Is responsive to local conditions and circumstances underlying outside water and sewer service arrangements inherited by American Canyon at the time of its incorporation in 1992.

Disadvantages

- Diminishes the intent of G.C. §56133 for the Commission to participate in the decision-making process involving the extension of outside water and sewer services by American Canyon in unincorporated south Napa County.
- Precludes the Commission from establishing controls to protect against the extension of outside water and sewer services by American Canyon in surrounding agricultural and open-space designated lands.
- Establishes a policy precedent with respect to deferring to similar local service agreements in administering G.C. §56133 with unknown outcomes.

Conclusion

Options D and E are measured policy alternatives for the Commission to address its role under G.C. §56133 as it relates to American Canyon. Both alternatives are reasonable attempts to clarify the Commission's responsibilities in a manner that is responsive to local conditions and circumstances. Staff believes that Option D is the more effective of the two alternatives with respect to fulfilling the legislative intent of G.C. §56133. Notably, Option D reconciles the responsibilities of the Commission while recognizing existing service arrangements and provides controls against the extension of urban services into agricultural and open-space designated lands.

Option D could be implemented by authorizing American Canyon to continue to provide new or extended outside water or sewer services within its service areas defined by LAFCO in a comprehensive or incremental approach. Staff believes that a comprehensive approach to Option D is preferable because it achieves the Commission's interests in meeting the legislative intent of G.C. §56133 without creating additional administrative processes in approving the logical extension of services within urban designated lands.

Alternatives for Commission Action

After consideration of this report, the Commission should consider approving one of the following alternatives:

Alternative One: Approve Option D, comprehensive approach. This would include taking the following action:

- 1) Adopt the attached draft resolution identified as "Attachment Five-A."

Alternative Two: Approve Option D, incremental approach. This would include taking the following action:

- 1) Adopt the attached draft resolution identified as "Attachment Five-B."

Alternative Three: Approve Option E. This would include taking the following action:

- 1) Adopt the attached draft resolution identified as "Attachment Five-C."

Alternative Four: If the Commission requires more discussion or information, continue this matter to a future meeting.

Recommendation

Staff recommends Alternative One. This alternative approves the comprehensive approach in implementing Option D.

Respectfully submitted,

Keene Simonds
Executive Officer

Jacqueline Gong
Commission Counsel

Attachments:

1. California Government Code §56133
2. Maps
 - a) ~~American Canyon (depicting inherited water and sewer service areas)~~
 - b) ~~American Canyon County Water District (at the time of its merger into American Canyon)~~
 - c) ~~American Canyon (metered outside water and sewer service connections)~~
 - d) ~~County of Napa Airport Industrial Area Specific Plan Boundary~~
 - e) ~~Proposed Outside Water and Sewer Service Areas for American Canyon under Option D~~
3. Agreements
 - a) ~~Napa County Flood Control and Water Conservation District: Water Supply (1966)~~
 - b) ~~Napa-American Canyon Wastewater Management Authority: Dissolution (1994)~~
4. Written Comments
 - a) ~~Letter from Robert Westmeyer, County Counsel, County of Napa, dated February 26, 2007~~
 - b) ~~Letter from William Ross, City Attorney, American Canyon, dated March 5, 2007~~
 - c) ~~Letter from Iris Yang on behalf of American Canyon, dated June 4, 2007~~
 - d) ~~Letter from Alan Lilly on behalf of the County of Napa, dated July 23, 2007~~
5. Draft LAFCO Resolutions
 - a) ~~Alternative One: Option D (comprehensive approval)~~
 - b) ~~Alternative Two: Option D (incremental approval)~~
 - c) ~~Alternative Three: Option E~~

California Government Code Section 56133

(a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.

(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

- (1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.
- (2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on or before January 1, 2001. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

EXHIBIT G



Local Agency Formation Commission
LAFCO of Napa County

Attachment Six
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Napa, CA 94559
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FAX (707) 251-1053
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October 15, 2007
Agenda Item No. 4a

October 10, 2007

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer
Jacqueline Gong, Commission Counsel

SUBJECT: California Government Code §56133 (Action: Continued)

The Commission will receive a supplemental analysis relating to a staff report presented at the October 1, 2007 meeting. The supplemental analysis addresses an alternative option proposed by the County of Napa regarding the Commission's role in administering California Government Code §56133 as it relates to the City of American Canyon.

At the October 1, 2007 meeting, the Commission received a staff report evaluating separate policy options to address LAFCO's role under California Government Code (G.C.) §56133 with respect to the extraterritorial service practices of the City of American Canyon. The policy options were evaluated in context to an existing discrepancy between the responsibilities of the Commission to regulate outside service provision and the water and sewer service areas assumed by American Canyon at the time of its incorporation. Markedly, as successor to the American Canyon County Water District, American Canyon has inherited agreements with local agencies that include agency-defined water and sewer service areas for the City extending beyond its jurisdiction and sphere of influence. The key components underlying the policy options evaluated in the October report are summarized below.

Option D (Comprehensive):

The Commission would adopt extraterritorial water and sewer service areas for American Canyon to include only lands within its existing agency-defined service areas that are designated for urban use under the current County General Plan. The Commission would make a one-time determination authorizing American Canyon to provide new and extended services within its extraterritorial service areas.

Option D (Incremental):

The Commission would take similar actions to the comprehensive approach to Option D with the exception of authorizing American Canyon to provide new or extended services in its extraterritorial service areas on an application-by-application basis.

Jack Gingles, Chair
Mayor, City of Calistoga

Juliana Inman, Commissioner
Councilmember, City of Napa

Cindy Coffey, Alternate Commissioner
Councilmember, City of American Canyon

Brad Wagenknecht, Vice-Chair
County of Napa Supervisor, 1st District

Bill Dodd, Commissioner
County of Napa Supervisor, 4th District

Mark Luce, Alternate Commissioner
County of Napa Supervisor, 2nd District

Brian J. Kelly, Commissioner
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Keene Simonds
Executive Officer

Option E:

The Commission would determine that American Canyon does not require approval under G.C. §56133 to provide water and sewer services within its agency-defined service areas.

The October report concluded that a comprehensive approach to Option D is the preferred policy alternative for the Commission. In particular, this option satisfies the legislative intent of G.C. §56133 by establishing controls against the extension of urban services into agricultural designated lands in a manner that recognizes existing service arrangements. This option also avoids unnecessary administrative processes in approving the logical extension of urban services that are appropriate given local conditions and circumstances. Finally, this option provides predictability to American Canyon as the service provider and the County as land use authority in identifying the areas in which the Commission believes it is appropriate for the City to provide extraterritorial water and sewer services.

Discussion

At the October 1st meeting, the Commission received a request from the County to consider an alternative option to staff's recommendation of a comprehensive approach to Option D. The County's "alternative option," as originally submitted, generally incorporated the provisions in the comprehensive approach to Option D and referenced the extraterritorial service areas for American Canyon proposed by LAFCO staff. However, distinctively, the original alternative option included a broad determination that all future water and sewer connections within American Canyon's extraterritorial service areas would not be considered new or extended and therefore not subject to Commission approval. The Commission directed staff to return with an analysis of the alternative option as part of a special meeting scheduled for October 15, 2007.

Analysis

On October 9, 2007, the County submitted an expansive revision to its alternative option for consideration by the Commission. The County's revision includes three fundamental and related changes from the original alternative option presented at the October 1st meeting. First, the alternative option now expands American Canyon's extraterritorial water and sewer service areas to correspond with the agency-defined service areas it assumed at the time of its incorporation through contracts with the Napa County Flood Control and Water Conservation District and the Napa Sanitation District. Second, the revised alternative option specifies that future service connections within the extraterritorial service areas that are part of the County's *Airport Industrial Area Specific Plan* (AIASP) are not new or extended services and not subject to Commission approval. Third, the revised alternative option states that all future connections in the extraterritorial service areas lying outside the AIASP are considered new or extended services and subject to Commission approval.

In submitting its revised alternative option the County has expressed concern regarding the long-term implications associated with staff's recommendation for a comprehensive approach to Option D. In its corresponding letter of October 9, 2007, the County comments that the provisions in the comprehensive approach to Option D establish precedents for the Commission to approve all future out-of-agency service connections. The County believes this precedent is disconcerting and may create "significant and unintended effects in the case of other cities in Napa County." The County asserts the provisions in its alternative option provide the same substantive results as the comprehensive approach to Option D relating to lands in the AIASP while providing flexibility in determining the application of G.C. §56133 as it relates to other agencies.

Staff agrees with the County that its alternative option provides a similar functional result to the comprehensive approach to Option D with respect to lands in the AIASP. Specifically, both options establish no further role for the Commission relating to American Canyon serving new water and sewer connections within the portion of its extraterritorial service areas subject to the AIASP. The two options, however, are predicated on markedly different determinations that influence the policy outcomes for the Commission. These differences in policy outcomes arise in defining 1) new and extended services and 2) extraterritorial service areas. Analysis of these differences follows.

New and Extended Services

The comprehensive approach to Option D includes definitions for new and extended services. The definition for "new" is broad and triggered with the actual extension of water or sewer services to previously unserved lands. In contrast, the definition of "extended" is narrow and triggered with the intensification of water or sewer uses to previously served land as a result of redesignation or rezoning by the affected land use authority. These definitions balance each other and are intended to provide clear guidance to American Canyon when Commission approval is required to provide services outside its extraterritorial service areas.

The County's alternative option does not provide specific definitions for new and extended services. As mentioned, the County believes it is inappropriate to apply specific and area-wide definitions to American Canyon's extraterritorial service areas. The alternative option, however, does specify that future water and sewer connections to lands within the AIASP will accommodate infill development and is therefore not considered new or extended services. In this respect, the alternative option does establish an implicit definition of new and extended services relating to infill and may create uncertain precedents for the Commission with regard to administering G.C. §56133 with respect to other cities and special districts in Napa County.

Extraterritorial Service Areas

The comprehensive approach to Option D defines American Canyon's extraterritorial service areas to include only lands within its existing agency-defined service areas that are designated for urban use under the current County General Plan. The decision to utilize land use designations in determining appropriate extraterritorial service areas is consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 as well as the adopted policies of the Commission. The use of land use designations also provides a uniform tool for the Commission in determining the extraterritorial service areas for other local agencies in Napa County if necessary.

The County's alternative option defines American Canyon's extraterritorial service areas to correspond directly with its agency-defined services areas. Staff recognizes that this approach is consistent with the established practice of the Commission to recognize the service areas assumed by the City as successor to the American Canyon County Water District. The alternative option would formalize this practice.

The designation of American Canyon's extraterritorial service areas is a tangible signal to the City where the Commission believes it is appropriate to eventually provide services. The alternative option's extraterritorial service areas include a number of lands designated for non-urban use under the current County General Plan. The extraterritorial service areas defined in the comprehensive approach to Option D are limited to lands designated for urban use under the County General Plan and readily support the Commission's objective to discourage urban sprawl.

Conclusion

The County's revised alternative option is premised on reasonable assumptions and objectives. Accordingly, the alternative option is a reasonable alternative for the Commission to consider with respect to addressing its role in administering G.C. §56133 in relationship to American Canyon.

Staff continues to believe that a comprehensive approach to Option D is the more effective of the alternatives evaluated in fulfilling the legislative intent of G.C. §56133. This law charges the Commission with the duty to review and approve new and extended services that arise outside the jurisdictional boundary of a service provider. It is the role of the Commission to define new and extended services, determine the appropriate areas of governmental services, identify the appropriate service provider, and protect agricultural and open-space resources. The comprehensive approach to Option D addresses these prescribed roles of the Commission in a manner that 1) establishes effective controls against urban sprawl, 2) avoids unnecessary administrative process in approving the logical extension of services appropriate for local conditions, and 3) provides predictability for American Canyon in identifying its future service areas and responsibilities.

Alternatives for Commission Action

After consideration of this supplemental analysis, the Commission should consider approving one of the following alternatives:

Alternative One: Approve Option D, comprehensive approach. This would include taking the following action:

- 1) Adopt the revised attached draft resolution identified as “Alternative One (Option D: Comprehensive)”

Alternative Two: Approve Option D, incremental approach. This would include taking the following action:

- 1) Adopt the revised attached draft resolution identified as “Alternative Two (Option D: Incremental)”

Alternative Three: Approve Option E. This would include taking the following action:

- 1) Adopt the revised attached draft resolution identified as “Alternative Three (Option E)”

Alternative Four: Approve the Alternative Option. This would include taking the following action:

- 1) Adopt the revised attached draft resolution identified as “Alternative Four (Alternative Option)”

- * Staff has made a limited number of changes to the draft resolutions that were presented at the October 1st meeting for Alternatives One, Two, and Three. These changes are highlighted in red in the “track changes” version attached to each clean resolution. The majority of changes apply only to Alternative One. This includes 1) defining extraterritorial, 2) recognizing the expectation of the County that adequate water and sewer services shall be provided by American Canyon as successor to ACCWD within the City’s extraterritorial service areas, and 3) clarifying that Commission approval is unconditional. Staff has also created two separate exhibits showing the proposed extraterritorial water and sewer service areas. (A modification to the northwest corner of the water service area has also been made to correctly correspond with the boundary in the NCFWCWCD contract.)

California Government Code §56133
October 15, 2007
Page 6 of 6

Recommendation

Staff recommends Alternative One. This alternative approves the comprehensive approach in implementing Option D.

Respectfully submitted,

Keene Simonds
Executive Officer

Jacqueline Gong
Commission Counsel

Attachments:

- 1) Letter from the County of Napa, dated October 9, 2007
- 2) Draft Resolution for Alternative One
- 3) Draft Resolution for Alternative Two
- 4) Draft Resolution for Alternative Three
- 5) Draft Resolution for Alternative Four
- ~~6) LAFCO Staff Report for October 1, 2007 Meeting~~



COUNTY *of* NAPA

NANCY WATT
County Executive Officer

BRITT FERGUSON
Assistant County Executive Officer

Tuesday, October 9, 2007

Keene Simonds, Executive Officer
LAFCO of Napa County
1700 Second Street, Suite 268
Napa, CA 94559

Re: *Review of California Government Code Section 56133*

Dear Keene:

On behalf of Napa County, I'd like to apologize at the outset for not providing our proposed revisions to your draft resolution sooner. We received your draft resolution regarding the application of Government Code section 56133 to the Airport Industrial Area (AIA) in the middle of the week preceding LAFCO's hearing, and we were unable to coordinate our internal reviews and discussions until the weekend, which is why you and your Commission did not receive our proposed revisions until the day of the hearing.

Since last Monday's meeting, we have had time to prepare the enclosed proposed resolution which we request you forward to the Commission as an alternative to your proposal. The reasons the County supports this alternative resolution are set forth below.

As we discussed at length last Friday, the County's proposed resolution insofar as the AIA is concerned will result in the *same substantive result* as the resolution you drafted, since both approaches result in LAFCO having no further review of services inside the AIA. The only difference between the two draft resolutions is the reasoning used to reach the result. Under your draft, the resolution would conclude that Government Code section 56133 applies to new services in the AIA but would give blanket LAFCO approval for all additional connections based on health and safety considerations as authorized by subdivision (c) of section 56133. On the other hand, under the County's draft, the resolution would conclude that Government Code section 56133 does not apply to services in the AIA for two reasons: because such services cannot reasonably be viewed as "new" or "extended;" and because of the "grandfathering" or "exception" provisions found in subdivision (e) of section 56133.

In addressing our first rationale, you have suggested the Commission should explicitly define "new or extended services" and apply that definition to the entire 1966 Water Service Area. The County disagrees that an explicit definition is required and disagrees that such a definition, even if developed, should be structured in such a way that it would be applied to development within

Keene Simonds
Re: Review of CGC 51633
Tuesday, October 9, 2007
Page 2 of 3

the AIA. The AIA is an area that currently has a significant amount of development and was expected to develop with full water services upon the adoption of a Specific Plan in 1986. The vast majority of the AIA is presently serviced with the infrastructure necessary to provide needed water services and lacks only the connections. Thus the County believes that additional water service in the AIA cannot reasonably be viewed as “new” or “extended” services.

In our view, what constitutes a “new service” or an “extended services” can only be determined in a given situation after taking into account both the existence of infrastructure as well as the purpose and intent of the LAFCO statutes which are focused on discouraging urban sprawl, preserving open-space and prime agricultural lands, as well as providing for the efficient extension of governmental services. Applying both of these factors to the AIA requires one to reach the conclusion that services within the AIA cannot and should not be viewed as “new” or “extended” services.

Further, it is our belief that any additional service within the AIA would only facilitate infill development pursuant to a longstanding land use plan (i.e. the 1986 Specific Plan) that preceded the enactment of Government Code section 56133. This being the case, even if future services are deemed “new or extended services” LAFCO approval is not required because providing such services are subject to one or more of the exceptions found in subparagraph (e) of 56133.

* * *

Aside from our factual arguments regarding whether services within the AIA should be considered “new” or “extended” services, the difference between your approach and the County’s recommended approach is very important to the County because the County is concerned of the potential precedential effects the LAFCO resolution might have on additional connections to the water systems of other cities in Napa County to parcels outside of those cities’ boundaries. Your draft resolution would explicitly define “new services” and “extended services” wherever they might appear in the County. This being the case, the precedent established by this resolution would require that all such future connections be approved by LAFCO without regard to whether requiring such an approval furthered the purpose and intent of the LAFCO statutory scheme. While this precedent would be unlikely to affect American Canyon for many years, it could have significant, unintended effects in the case of other cities in Napa County.

On the other hand, the County’s draft resolution would provide LAFCO with the flexibility to continue to review the specific facts and circumstances of each city’s proposed extraterritorial water service deliveries when LAFCO considers issues regarding such services. This in turn would allow LAFCO to make a decision in each case that would be appropriate based on the relevant facts and the purpose and intent of the LAFCO statutes. In sum, the County believes this approach would give LAFCO, the County and the affected city more flexibility to determine what constitutes new or extended services in each specific situation. We believe that is why these

Keene Simonds
Re: Review of CGC 51633
Tuesday, October 9, 2007
Page 2 of 3

terms were not defined by the legislature when it comprehensively revised the LAFCO statutes, including section 56133, in 2001.

You will find enclosed a copy of the County's proposed resolution. The County's revised draft resolution continues to include a paragraph (paragraph 5) which acknowledges the City of American Canyon's absolute right to attach reasonable conditions prior to providing water services within its Service Area, regardless of whether or not those services are subject to LAFCO review.

Finally, I have included a revised Exhibit A, reflecting our position that the portion of the "extraterritorial service area" not subject to 56133 should be limited to the AIA, and should not include agricultural areas which have minimal or no water infrastructure in the ground at the present time.

The same rationale set forth above in regard to water services applies equally to the provision of sanitary sewer services within the AIA and thus the County's proposed resolution also includes appropriate language in regard to sewer services.

I would appreciate if you would forward this letter to your Commission and invite both you and them to call me if you have any questions.

Sincerely,



Nancy Watt
County Executive Officer

cc. Richard Ramirez
Board of Supervisors

RESOLUTION NO. _____

**RESOLUTION OF THE
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY**

POLICY DETERMINATION

**ADOPTION OF EXTRATERRITORIAL WATER AND SEWER SERVICE AREAS FOR THE
CITY OF AMERICAN CANYON AND AREAWIDE AUTHORIZATION TO PROVIDE
SERVICES**

WHEREAS, the Local Agency Formation Commission of Napa County, hereinafter referred to as “the Commission”, is directed under Government Code Section 56133 to regulate the provision of new and extended services by cities and special districts outside their jurisdictional boundaries; and

WHEREAS, the City of American Canyon, hereinafter referred as “American Canyon,” serves as successor agency to the American Canyon County Water District and assumed at the time of its incorporation water and sewer operations, including infrastructure and service arrangements, that extend beyond its jurisdictional boundary; and

WHEREAS, the Commission has prepared studies evaluating the level and range of water and sewer services provided by American Canyon as part of the *Comprehensive Water Service Study* (2004) and the *Comprehensive Study of Sanitation and Wastewater Treatment Providers* (2006); and

WHEREAS, the Commission held public meetings on March 5, 2007, October 1, 2007, and October 15, 2007 to discuss the matter of Government Code Section 56133 as it relates to American Canyon; and

WHEREAS, the Commission desires to reconcile the provisions of Government Code Section 56133 with the water and sewer service operations assumed by American Canyon.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

1. The Commission adopts extraterritorial water and sewer service areas for American Canyon that are distinct from its sphere of influence and shown in Exhibits “A” and “B,” hereinafter referred to as “extraterritorial service areas.” For the purpose of this policy, the Commission defines extraterritorial as lands served by American Canyon outside its jurisdictional boundary.
2. The Commission recognizes and designates American Canyon as the appropriate public water and sewer service provider within its extraterritorial service areas.
3. The Commission recognizes the expectation of the County of Napa that adequate public water and sewer services shall be provided by the City of American Canyon as successor agency to the American Canyon County Water District to lands in the extraterritorial service areas.

4. The Commission determines that American Canyon has sufficient service capacities and administrative controls to provide an adequate level of new or extended water and sewer services within its extraterritorial service areas. For the purpose of this policy, the Commission makes the following definitions:
 - a) New services are triggered with the actual extension of water or sewer to previously unserved land.
 - b) Extended services are triggered with the intensification of water or sewer uses to previously served land as a result of redesignation or rezoning by the affected land use authority.
5. The Commission recognizes that American Canyon may exercise its existing authority as a service provider to establish terms and conditions relating to the provision of new or extended water and sewer services within its extraterritorial service areas.
6. The Commission determines that the provision by American Canyon of new or extended water and sewer services within its extraterritorial service areas abates potential threats to public health and safety. The Commission finds that there are no other viable alternative service providers.
7. The Commission authorizes American Canyon to provide new or extended water and sewer services within its extraterritorial service areas. Authorization is granted unconditionally and will not be subject to further Commission review.
8. American Canyon may not provide new or extended water and sewer services beyond its extraterritorial service areas without prior written authorization by the Commission.
9. As lead agency, the Commission finds the adoption of this policy determination is exempt from the California Environmental Quality Act under Title 14 of the California Code of Regulations §15320 (Class 20). This policy formalizes and reconstitutes American Canyon's organizational water and sewer service areas and practices in a manner with de minimis impacts to the service areas defined by the Commission.

The foregoing resolution was duly and regularly adopted by the Commission at a meeting held on the 15th day of October, 2007, by the following vote:

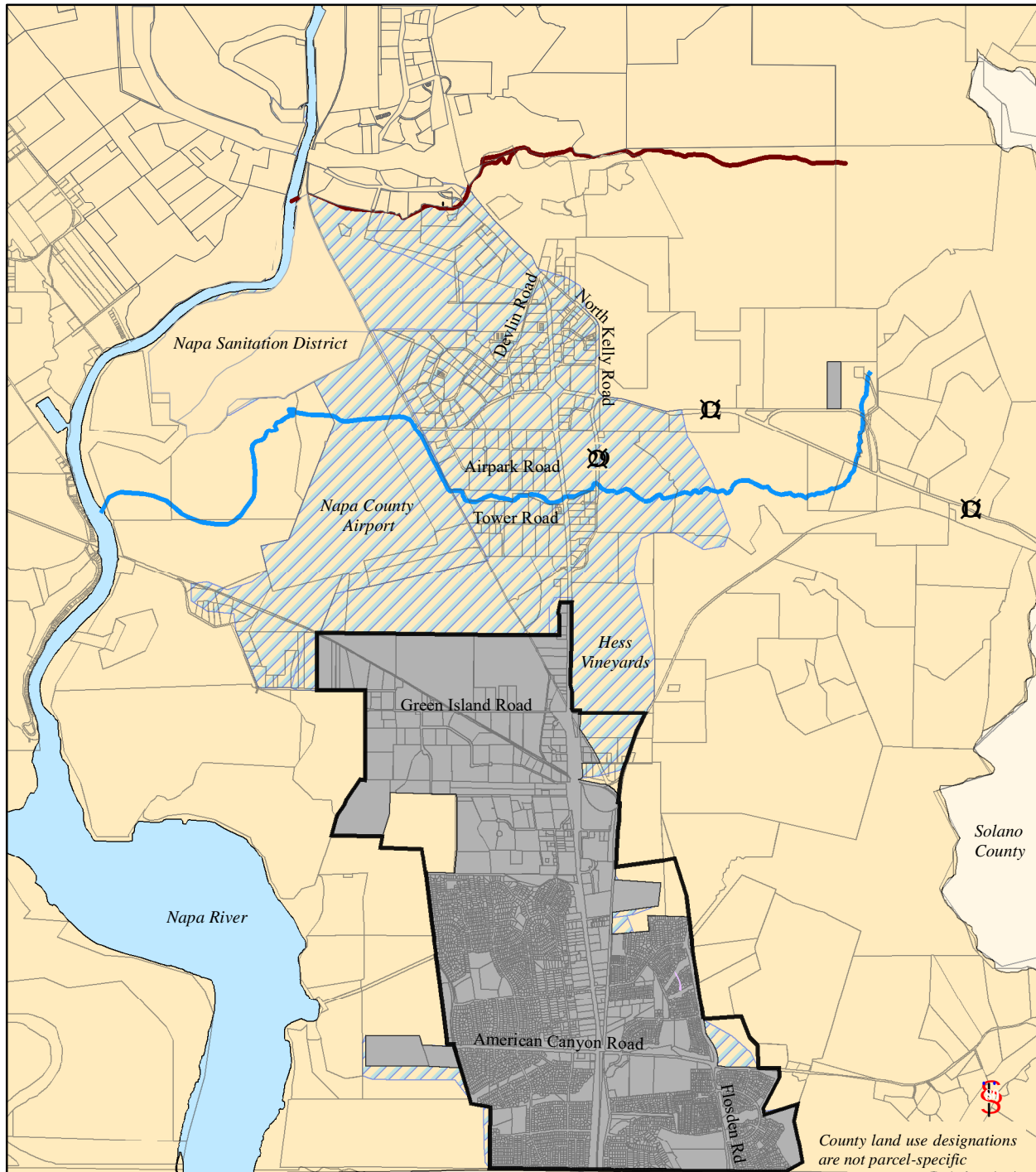
| | | |
|----------|---------------|-------|
| AYES: | Commissioners | _____ |
| NOES: | Commissioners | _____ |
| ABSENT: | Commissioners | _____ |
| ABSTAIN: | Commissioners | _____ |

ATTEST: Keene Simonds
Executive Officer

Recorded by: _____
Kathy Mabry
Commission Secretary

City of American Canyon Extraterritorial Water Service Area

Attachment Six
EXHIBIT A



City of American Canyon's Extraterritorial Water Service Area (Proposed)
 American Canyon's extraterritorial water service area generally includes all urban designated lands (County of Napa) located east of the Napa River and south of Soscol Ridge.

Legend

- City of American Canyon**
- City of American Canyon Sphere of Influence**
- Fagan Creek**
- Soscol Ridge (approximation)**



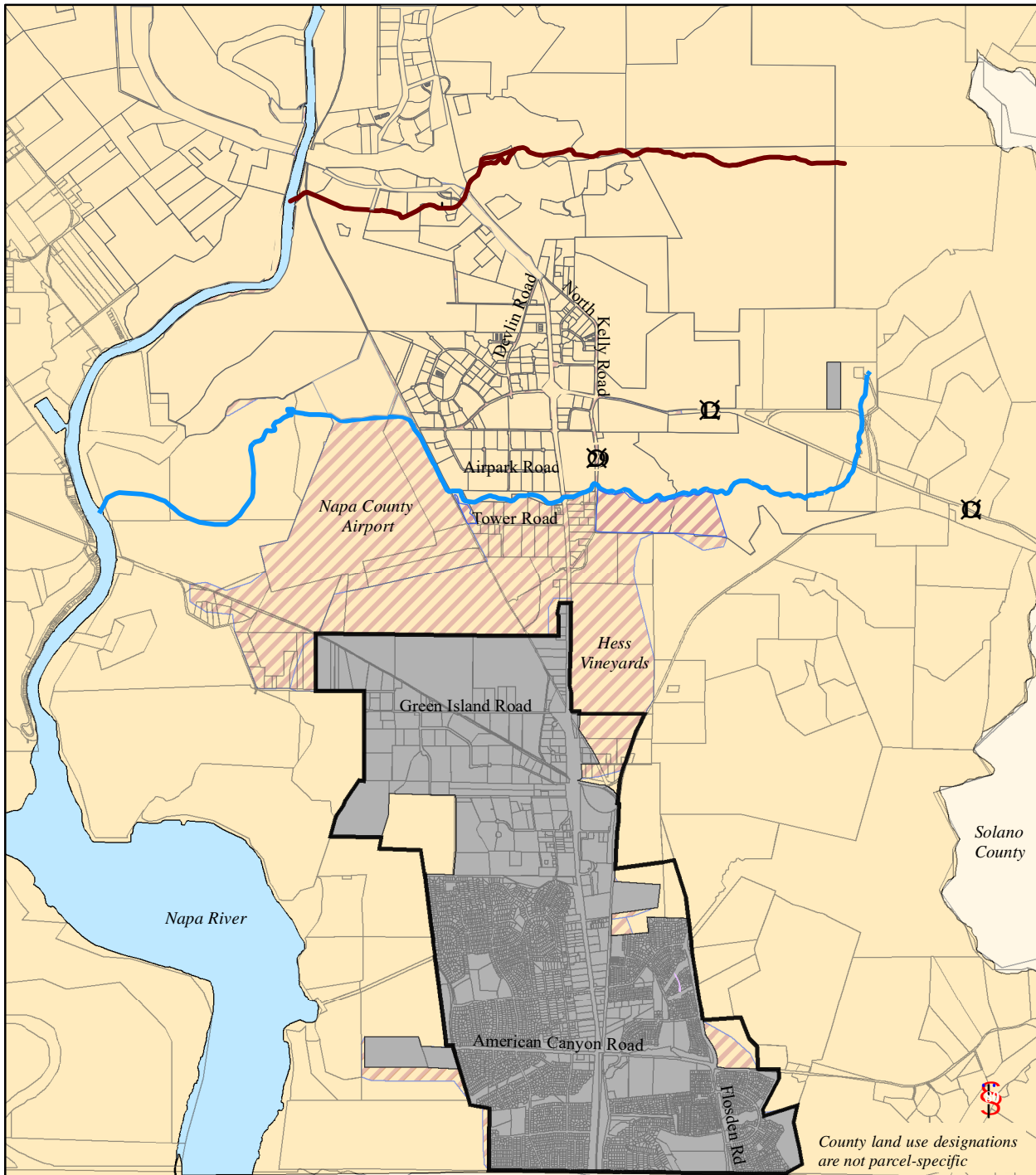
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October 7, 2007
Prepared by KS*

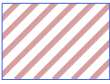


LAFCO of Napa County
1700 Second Street, Suite 268
Napa, CA 94559
(707) 259-8645





City of American Canyon Extraterritorial Sewer Service Area

Attachment Six
EXHIBIT B



 **City of American Canyon's Extraterritorial Sewer Service Area (Proposed)**
 American Canyon's extraterritorial sewer service area includes all urban designated lands (County of Napa) located east of the Napa River and south of Fagan Creek.

Legend

-  **City of American Canyon**
-  **City of American Canyon Sphere of Influence**
-  **Fagan Creek**
-  **Soscol Ridge (approximation)**



*Not to Scale
October 4, 2007
Prepared by KS*



LAFCO of Napa County
1700 Second Street, Suite 268
Napa, CA 94559
(707) 259-8645

RESOLUTION NO. _____

**RESOLUTION OF THE
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY**

POLICY DETERMINATION

**ADOPTION OF EXTRATERRITORIAL WATER AND SEWER SERVICE AREAS FOR
THE CITY OF AMERICAN CANYON**

WHEREAS, the Local Agency Formation Commission of Napa County, hereinafter referred to as “the Commission”, is directed under Government Code Section 56133 to regulate the provision of new and extended services by cities and special districts outside their jurisdictional boundaries; and

WHEREAS, the City of American Canyon, hereinafter referred as “American Canyon,” serves as successor agency to the American Canyon County Water District and assumed at the time of its incorporation water and sewer operations, including infrastructure and service arrangements, that extend beyond its jurisdictional boundary; and

WHEREAS, the Commission has prepared studies evaluating the level and range of water and sewer services provided by American Canyon as part of the *Comprehensive Water Service Study* (2004) and the *Comprehensive Study of Sanitation and Wastewater Treatment Providers* (2006); and

WHEREAS, the Commission held public meetings on March 5, 2007, October 1, 2007, and October 15, 2007 to discuss the matter of Government Code Section 56133 as it relates to American Canyon; and

WHEREAS, the Commission desires to reconcile the provisions of Government Code Section 56133 with the water and sewer service operations assumed by American Canyon.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

1. The Commission adopts extraterritorial water and sewer service areas for American Canyon that are distinct from its sphere of influence and shown in Exhibits “A” and “B,” hereinafter referred to as “extraterritorial service areas.” For the purpose of this policy, the Commission defines extraterritorial as lands served by American Canyon outside its jurisdictional boundary.
2. The Commission recognizes and designates American Canyon as the appropriate public water and sewer service provider within its extraterritorial service areas.
3. The Commission recognizes the expectation of the County of Napa that adequate public water and sewer services shall be provided by the City of American Canyon as successor agency to the American Canyon County Water District to lands in the extraterritorial service areas.

4. American Canyon may submit an application to the Commission requesting approval to provide new or extended water and sewer services within its extraterritorial service areas. The application shall conform to standards as established by the Commission. For the purpose of this policy, the Commission makes the following definitions:
 - a) New services are triggered with the actual extension of water or sewer to previously unserved land.
 - b) Extended services are triggered with the intensification of water or sewer uses to previously served land as a result of redesignation or rezoning by the affected land use authority.
5. The Commission recognizes that American Canyon may exercise its existing authority as a service provider to establish terms and conditions relating to the provision of new or extended water and sewer services within its extraterritorial service areas.
6. The Commission determines that the provision by American Canyon of new or extended water and sewer services within its extraterritorial service areas abates potential threats to public health and safety. The Commission finds that there are no other viable alternative service providers.
7. American Canyon may not provide new or extended water and sewer services beyond its extraterritorial service areas without prior written authorization by the Commission.
8. As lead agency, the Commission finds the adoption of this policy determination is exempt from the California Environmental Quality Act under Title 14 of the California Code of Regulations §15320 (Class 20). This policy formalizes and reconstitutes American Canyon's organizational water and sewer service areas and practices in a manner with de minimis impacts to the service areas defined by the Commission.

The foregoing resolution was duly and regularly adopted by the Commission at a meeting held on the 15th day of October, 2007, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSENT: Commissioners _____

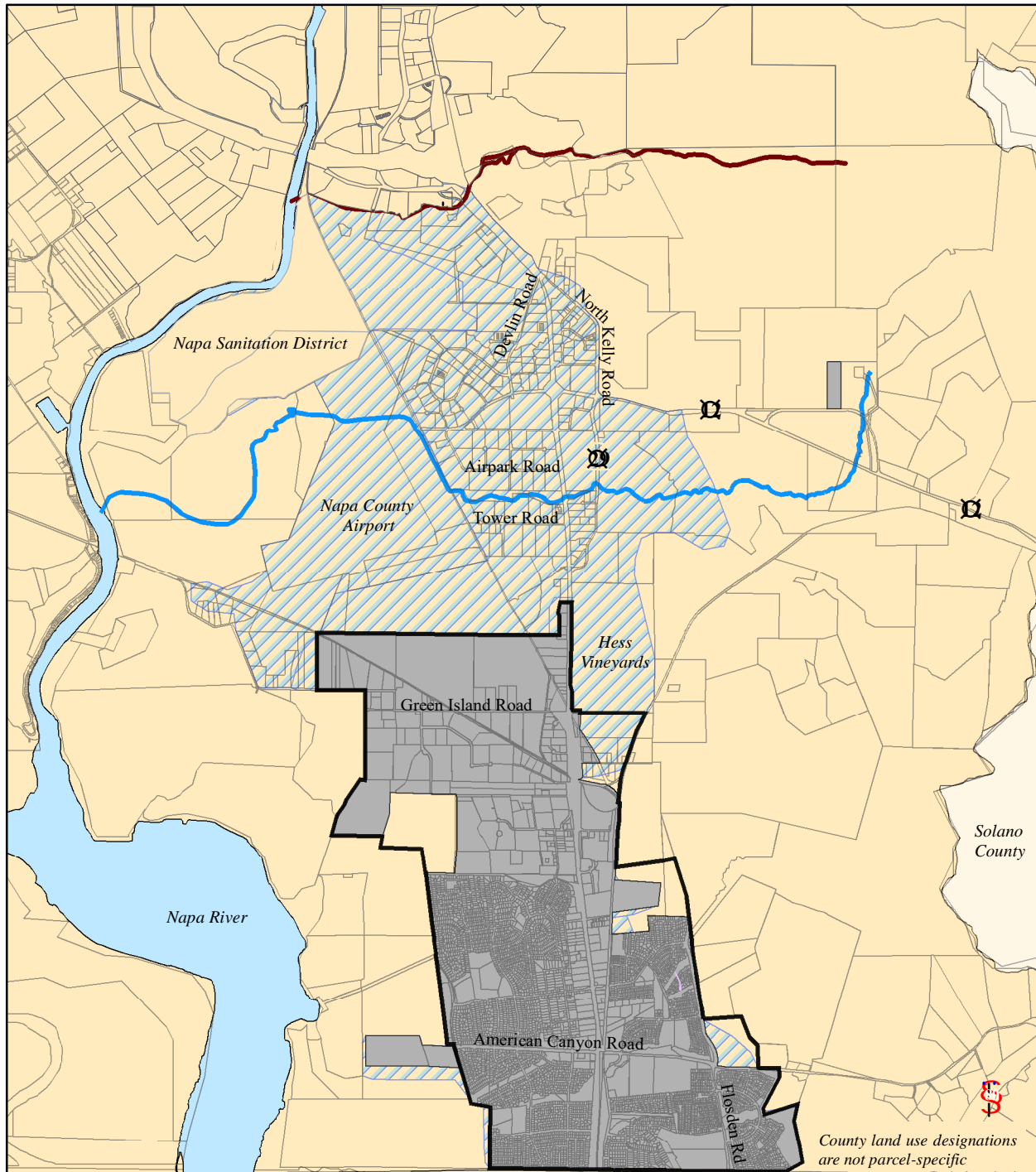
ABSTAIN: Commissioners _____

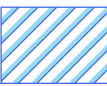
ATTEST: Keene Simonds
Executive Officer

Recorded by: _____
Kathy Mabry
Commission Secretary





City of American Canyon Extraterritorial Water Service Area

Attachment Six
EXHIBIT A



 **City of American Canyon's Extraterritorial Water Service Area (Proposed)**
 American Canyon's extraterritorial water service area generally includes all urban designated lands (County of Napa) located east of the Napa River and south of Soscol Ridge.

Legend

-  **City of American Canyon**
-  **City of American Canyon Sphere of Influence**
-  **Fagan Creek**
-  **Soscol Ridge (approximation)**



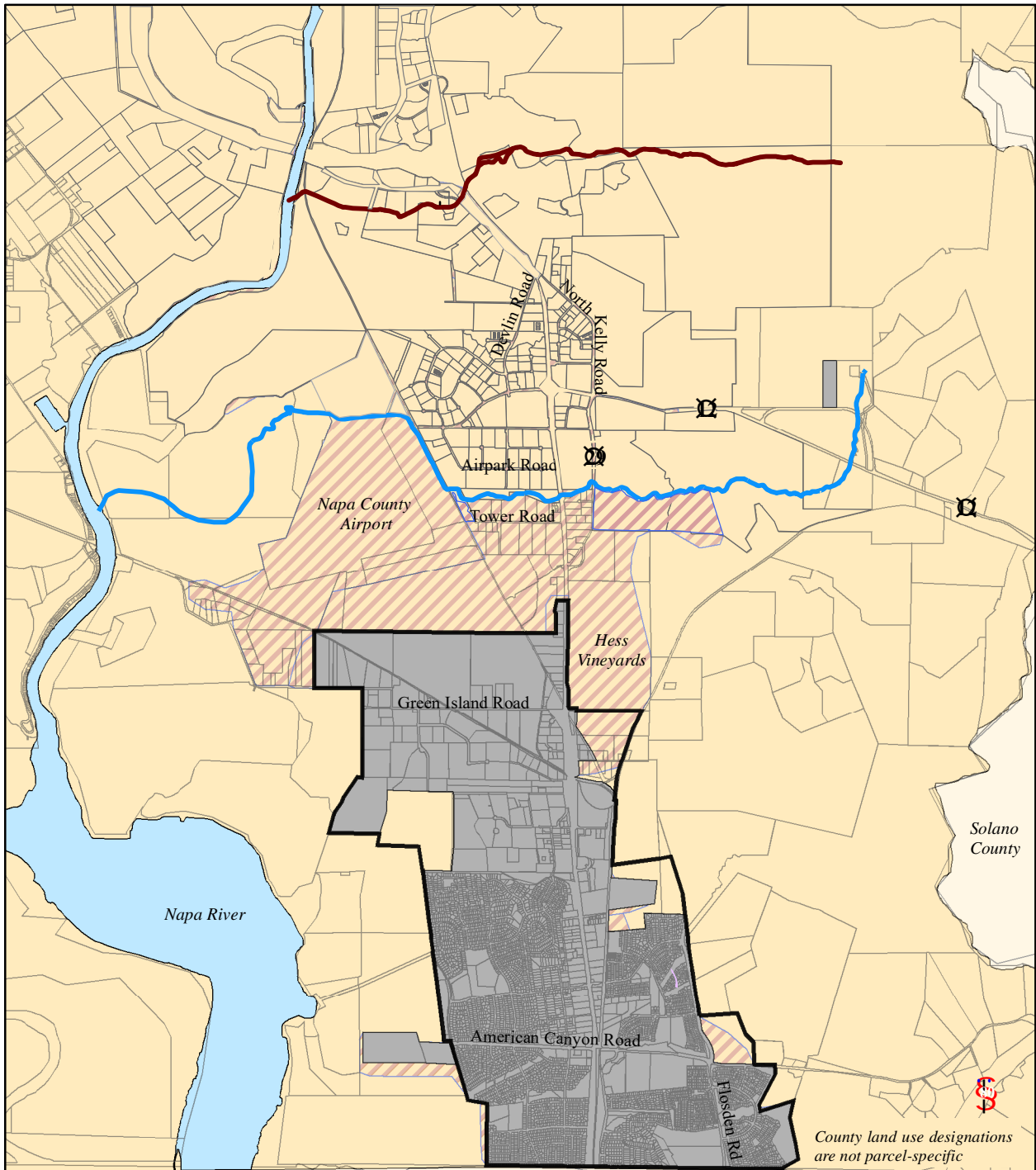
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October 7, 2007
Prepared by KS*

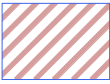


LAFCO of Napa County
1700 Second Street, Suite 268
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(707) 259-8645





City of American Canyon Extraterritorial Sewer Service Area

Attachment Six
EXHIBIT B



 **City of American Canyon's Extraterritorial Sewer Service Area (Proposed)**
 American Canyon's extraterritorial sewer service area includes all urban designated lands (County of Napa) located east of the Napa River and south of Fagan Creek.

Legend

-  **City of American Canyon**
-  **City of American Canyon Sphere of Influence**
-  **Fagan Creek**
-  **Soscol Ridge (approximation)**



*Not to Scale
October 4, 2007
Prepared by KS*



LAFCO of Napa County
1700 Second Street, Suite 268
Napa, CA 94559
(707) 259-8645

RESOLUTION NO. _____

**RESOLUTION OF THE
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY**

POLICY DETERMINATION

**DETERMINING THE CITY OF AMERICAN CANYON IS NOT SUBJECT TO COMMISSION
APPROVAL UNDER GOVERNMENT CODE SECTION 56133 INVOLVING CERTAIN
SERVICE AREAS OUTSIDE THE CITY**

WHEREAS, the Local Agency Formation Commission of Napa County, hereinafter referred to as “the Commission”, is directed under Government Code Section 56133 to regulate the provision of new and extended services by cities and special districts outside their jurisdictional boundaries; and

WHEREAS, the City of American Canyon, hereinafter referred as “American Canyon,” serves as successor agency to the American Canyon County Water District and assumed at the time of its incorporation water and sewer operations, including infrastructure and service arrangements, that extend beyond its jurisdictional boundary; and

WHEREAS, as successor agency to the American Canyon County Water District, American Canyon has inherited agreements with the Napa County Flood Control and Water Conservation District and the Napa Sanitation District that respectively establish water and sewer service areas for the City that extend beyond its jurisdictional boundary; and

WHEREAS, the agreements American Canyon has inherited with the Napa County Flood Control and Water Conservation District and the Napa Sanitation District were established prior to the effective date of January 1, 2001 of Government Code Section 56133; and

WHEREAS, the Commission held public meetings on March 5, 2007, October 1, 2007, and October 15, 2007 to discuss the matter of Government Code Section 56133 as it relates to American Canyon; and

WHEREAS, the Commission desires to clarify its responsibilities under Government Code Section 56133 as it relates to American Canyon.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

1. The Commission determines that American Canyon does not require approval under Government Code Section 56133 to provide water and sewer services within the service areas defined in its agreements with Napa County Flood Control and Water Conservation District and the Napa Sanitation District. The Commission determines that the referenced agreements adequately provide for the provision of water and sewer services within American Canyon agency-defined service areas and these services are not deemed new or extended and are not subject to Government Code Section 56133.

2. The Commission finds that the policy is not a project subject to the California Environmental Quality Act pursuant to Title 14 of the California Code of Regulations §15378.

The foregoing resolution was duly and regularly adopted by the Commission at a meeting held on the 15th day of October, 2007, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSENT: Commissioners _____

ABSTAIN: Commissioners _____

ATTEST: Keene Simonds
Executive Officer

Recorded by: _____
Kathy Mabry
Commission Secretary

RESOLUTION NO. _____

RESOLUTION OF THE
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

POLICY DETERMINATION

ADOPTION OF EXTRATERRITORIAL WATER AND SEWER SERVICES FOR THE CITY OF
AMERICAN CANYON AND AREAWIDE AUTHORIZATION TO PROVIDE SERVICES

WHEREAS, the Local Agency Formation Commission of Napa County, hereinafter referred to as “the Commission”, is directed under Government Code Section 56133 to regulate the provision of new and extended services by cities and special districts outside their jurisdictional boundaries; and

WHEREAS, the City of American Canyon, hereinafter referred as “American Canyon,” serves as successor agency to the American Canyon County Water District and assumed at the time of its incorporation the exclusive right to provide water and sewer operations, including infrastructure and service arrangements, in certain areas of the unincorporated area that extend beyond its jurisdictional boundary; and

WHEREAS, the Commission has prepared studies evaluating the level and range of water and sewer services provided by American Canyon as part of the *Comprehensive Water Service Study* (2004) and the *Comprehensive Study of Sanitation and Wastewater Treatment Providers* (2006); and

WHEREAS, the Commission held public meetings on March 5, 2007 and October 1 and 15, 2007 to discuss the matter of Government Code Section 56133 as it relates to American Canyon; and

WHEREAS, the Commission desires to reconcile the provisions of Government Code Section 56133 with the water and sewer service operations assumed by American Canyon.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

1. The Commission adopts the extraterritorial water and sewer service area for American Canyon shown in Exhibit “A” (hereafter “ETSA”).
2. The Commission recognizes and designates American Canyon as the appropriate public water and sewer service provider within the ETSA.
3. The Commission determines that American Canyon has sufficient service capacities and administrative controls to provide an adequate level of water and sewer services within the ETSA.
4. The Commission determines that additional future connections to American Canyon’s water and sewer systems within that portion of the ETSA composed of the Airport Industrial Area are not “new or extended services” under Government Code section 56133 because American Canyon, as the successor agency to the American Canyon County Water District, already was

providing water and sewer services throughout this area on the effective date of Government Code section 56133 and because the additional connections will be only involve "infill" development, will not encourage urban sprawl, adversely affect open-space and prime agricultural lands, or encourage or result in the inefficient extension of governmental services.

5. The Commission recognizes that American Canyon may exercise its existing authority as a service provider to establish terms and conditions relating to the provision of water and sewer services within the entire ETSA, including but not limited to the Airport Industrial Area, provided that the terms and conditions do not discriminate between water and sewer users inside and outside City boundaries (except for lawful differences in rates and connection fees).
6. American Canyon may not provide new or extended water and sewer services within the ETSA without prior written authorization by the Commission; provided, however, that the Airport Industrial Area is exempted from this requirement for the reasons set forth in subparagraph 4 above.
7. As lead agency, the Commission finds the adoption of this policy determination is exempt from the California Environmental Quality Act under Title 14 of the California Code of Regulations §15320 (Class 20). This policy formalizes and reconstitutes American Canyon's organizational water and sewer service areas and practices in a manner with de minimis impacts to the service areas defined by the Commission.

The foregoing resolution was duly and regularly adopted by the Commission at a meeting held on the 15th day of October, 2007, by the following vote:

AYES: Commissioners _____

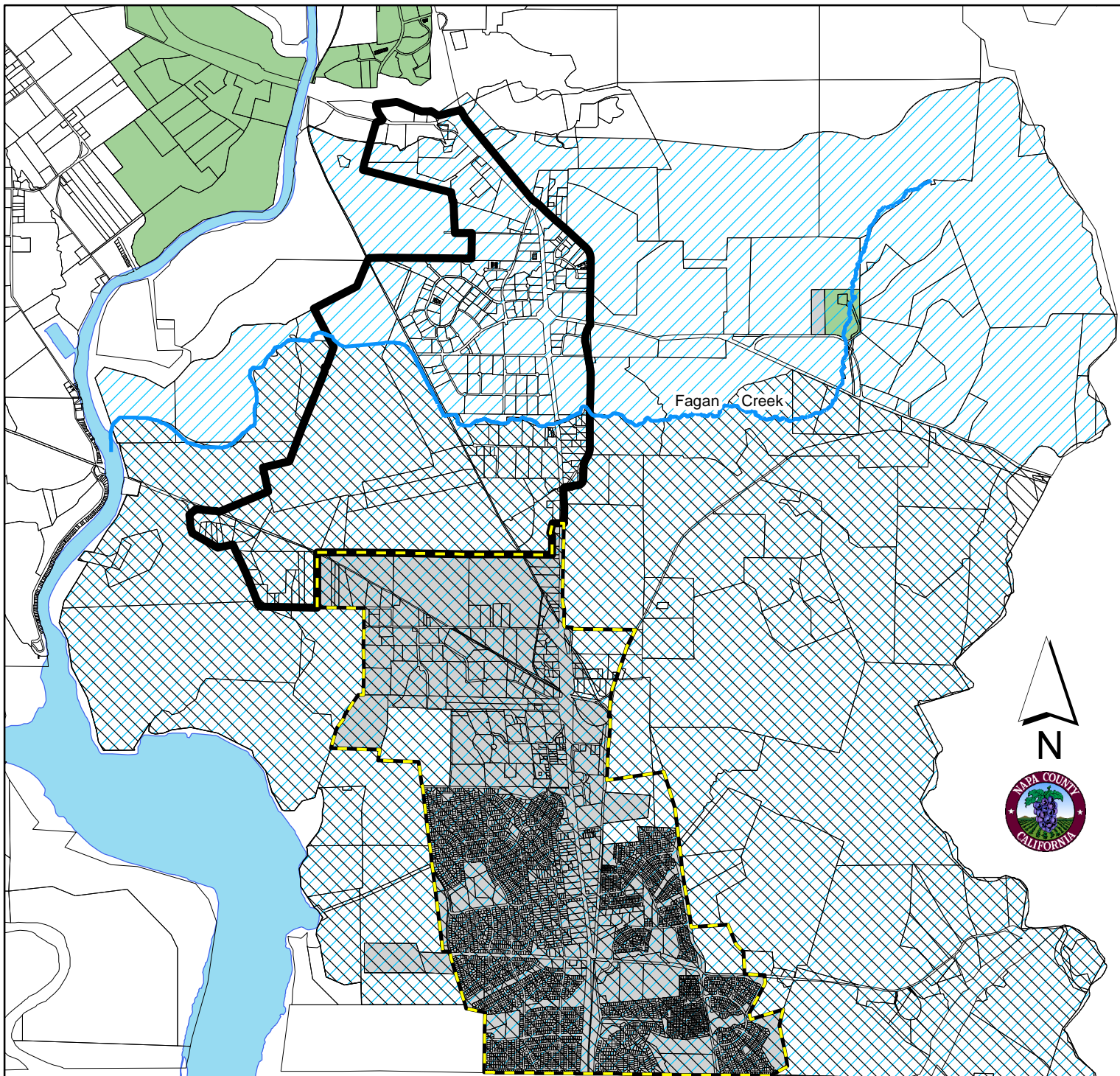
NOES: Commissioners _____

ABSENT: Commissioners _____








ABSTAIN: Commissioners _____

ATTEST: Keene Simonds
Executive Officer

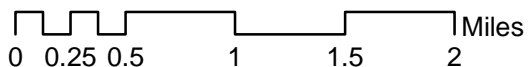
Recorded by: _____
Kathy Mabry
Commission Secretary



Legend

-  Extraterritorial Sewer Service Area
-  Extraterritorial Water Service Area
-  Airport Industrial Area
-  American Canyon Sphere of Influence
-  Parcels
-  American Canyon
-  Napa

*Extraterritorial Service Areas
& Airport Industrial Area*





Local Agency Formation Commission of Napa County
Subdivision of the State of California

1030 Seminary Street, Suite B
Napa, California 94559
Phone: (707) 259-8645
www.napa.lafco.ca.gov

We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 8a (Action)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer

MEETING DATE: October 5, 2020

SUBJECT: Streamlined Island Annexation Proceedings and Maps

RECOMMENDATION

It is recommended the Commission discuss the information presented by staff related to unincorporated islands and, if appropriate, provide direction to staff to return with respect to any desired island annexation efforts.

BACKGROUND

The Commission's adopted *Strategic Plan 2018-2022* contemplates the Commission seeking to partner with the City of Napa and Napa County to develop an island annexation program.

In 2017, the Commission received several reports summarizing the background of local island annexation outreach efforts, service inefficiencies that islands perpetuate, financial and service considerations, and resources needed to pursue an island annexation program.

On February 3, 2020, the Commission adopted its *Policy on Unincorporated Islands* ("the Policy"), included as Attachment One. The Policy includes a definition of "island" that clarifies the criteria for areas that are eligible for the streamlined island annexation proceedings codified under California Government Code (G.C.) Section 56375.3. The Commission also requested staff return with maps of all unincorporated areas located within each city or town's sphere of influence that show the County's General Plan land use designations.

On May 4, 2020, the Commission requested staff return with information regarding the streamlined island annexation process codified under G.C. Section 56375.3.

In August 2020, staff added a page to the Commission's website with substantial information related to islands in Napa County. The website page is available online at: https://www.napa.lafco.ca.gov/r_island_annexation.aspx.

Kenneth Leary, Chair
Councilmember, City of American Canyon

Margie Mohler, Commissioner
Councilmember, Town of Yountville

Scott Sedgley, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Vice Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Gregory Rodeno, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

SUMMARY

This report provides the information on islands that was requested by the Commission. The Commission is invited to discuss the information and consider whether any future changes to the Policy would be appropriate for purposes of revising the locally adopted definition of an “island”. If changes are desired, it is recommended the Commission provide direction to staff to return with a proposed amendment to the Policy at a future meeting.

A summary of the streamlined island annexation process and information on existing islands in Napa County follows.

Streamlined Island Annexation Process

On January 1, 2001, Assembly Bill 2838 (Hertzberg) was enacted and significantly expanded the objectives, powers, and procedures underlying LAFCOs and their ability to coordinate logical growth and development while preserving agricultural and open space resources. This included establishing a streamlined process for cities and towns to annex unincorporated pockets that are either entirely or substantially surrounded by their jurisdictional boundaries, which are commonly referred to as “islands”. This streamlined process is codified under G.C. Section 56375.3 and allows cities and towns to annex islands under certain conditions while avoiding protest proceedings. The streamlined process also curtails LAFCOs’ discretion by directing LAFCO to approve the annexation.

The streamlined island annexation process must be initiated by a city or town by resolution of application and must involve one or more entire islands. Similar to the standard annexation process, a tax sharing agreement with the County and rezoning of the island by the city or town are required.¹

The Policy definition of “island” requires all of the following criteria to be met for an unincorporated area to be eligible for the streamlined island annexation process:

- Located entirely within a city or town’s sphere of influence (SOI)
- Does not exceed 150 acres in size
- Does not contain prime agricultural as defined under G.C. Section 56064
- Does not contain lands subject to Measure P or designated by the County for an agricultural land use
- Designated for urban development by the annexing city or town
- Has an outer boundary that is 50% or more contiguous to the annexing city or town
- The outer boundary is the city or town’s boundary, the city or town’s SOI, and/or property owned by the State of California
- The territory is developed or developing
- The territory receives municipal service benefits from the city or town, or would benefit from the city or town following annexation

¹ In 1980, the City of Napa and Napa County entered into a master property tax sharing agreement that applies to all territory within the City’s SOI, including the islands. However, the City and the County retain the option to negotiate a separate tax sharing agreement for any proposed annexations.

It is important to note the Commission's adopted fee schedule specifies the fees typically collected by LAFCO to process annexation proposals will be waived if annexation is initiated by a city or town consistent with the streamlined island annexation process.

Summary of Islands and Similar Unincorporated Areas

There are 13 unincorporated areas in Napa County that meet the definition of an "island" under the Policy and are eligible for the streamlined annexation process. All 13 islands are located within the City of Napa's SOI. In addition, there are 16 unincorporated areas within a local city or town's SOI, but do not meet the local definition of an "island" and therefore they are ineligible for the streamlined annexation process.

An inventory chart of all islands and similar unincorporated areas within a city or town's SOI is included as Attachment Two. The inventory chart addresses all of the local policy criteria to inform whether or not each area meets the definition of "island" and is therefore eligible for the streamlined island annexation process.

Notably, the non-island named "Foster/Grandview" is not considered an island solely due to the presence of a small amount of land that appears to be designated for an agricultural land use in the County General Plan and thus also subject to Measure P. However, every parcel within this area is already developed with a single-family residence. Further, the GIS mapping layers for the County General Plan land use designations appear to be approximations with susceptibility to errors. The "Foster/Grandview" area may in fact qualify as an island if errors are found in the GIS mapping layers. Further study is required to determine the precise County General Plan agricultural land use boundaries prior to initiation of annexation proceedings for this area.

In addition, the non-island areas named "Saratoga/Capitola" and "Shurtleff/Cayetano" are not considered islands solely due to the presence of a single vacant parcel smaller than 0.5 acres that meets the state's technical definition of prime agricultural land under G.C. Section 56064. Notably, under state law the mere presence of any prime agricultural land within an area automatically disqualifies the area from the streamlined island annexation process. However, it is impractical to expect these small parcels – which are planned for residential land use by the City and also surrounded by urban land uses – to have significant value for agricultural purposes. This highlights an unintended consequence relating to the Legislature's goal to expedite the annexation of islands while also preserving agricultural lands. Staff recommends the Commission consider the merits of pursuing a legislative amendment to the definition of prime agricultural land under G.C. Section 56064 to remedy this unintended consequence.

Maps of Islands and Similar Unincorporated Areas

As requested by the Commission, staff prepared maps of all unincorporated areas located within each city or town's SOI showing the County's General Plan land use designations, included as Attachment Three. For purposes of providing additional reference materials, staff prepared maps of each of the five cities and town showing the County's General Plan land use designations for surrounding areas outside SOIs, included as Attachment Four.

Next Steps

Staff has been in communication with City of Napa staff regarding the process for initiating annexation for the islands. The City is currently studying existing infrastructure conditions within the islands, including an identification of estimated costs of improvements that would bring existing infrastructure in compliance with City standards. Coordination with Napa County will also be required.

In addition, the Commission's Outreach Committee (Chair Leary and Alternate Commissioner Kahn) will focus on information delivery strategies to ensure island landowners and residents are aware of the possible boundary change affecting them and have access to clear information. As mentioned on page one of this report, staff recently added a new page to the Commission's website that is dedicated to providing information related to island annexation.

Staff recommends the Commission discuss the information contained in this report and consider if any additional direction is appropriate. The Commission's considerations should include, but are not limited to, the following options:

- Direct staff to pursue a legislative amendment to the definition of prime agricultural land under G.C. Section 56064;
- Direct staff to send formal correspondence to the City with a recommendation to initiate island annexation proceedings;
- Direct staff to return with any additional information as desired (e.g., precise County General Plan agricultural land use boundaries);
- Direct staff to schedule a future public workshop to provide information related to island annexation and answer questions from the public;
- Direct the Policy Committee (Commissioners Mohler and Rodeno) to return with an amended local policy to remedy any unintended or undesired consequences; and
- Direct the Outreach Committee (Chair Leary and Alternate Commissioner Kahn) to take any immediate public education and outreach actions as desired.

ATTACHMENTS

- 1) Policy on Unincorporated Islands
- 2) Inventory Chart of Unincorporated Areas Within City/Town Spheres
- 3) Maps of Each Unincorporated Area Within City/Town Spheres Showing County General Plan Land Use Designations
- 4) Maps of Each City/Town Showing County General Plan Land Use Designations



LOCAL AGENCY FORMATION COMMISSION OF NAPA

Policy on Unincorporated Islands

(Adopted: February 3, 2020)

I. Background

Unincorporated islands (hereinafter “islands”) are areas of unincorporated territory that are completely or substantially surrounded by an incorporated city or town. The Cortese-Knox-Hertzberg Local Government Reorganization (CKH) Act of 2000 includes provisions for streamlining the annexation of islands to cities and towns ([California Government Code \(G.C.\) §56375.3](#)). CKH prohibits creation of new islands unless the Commission determines the prohibition would be detrimental to the orderly development of the community and that the area is located such that it could not reasonably be annexed to another city or town, or incorporated as a new city or town ([G.C. §56744](#)). As a condition of annexation to a city or town that includes territory located within an island, the Commission may require that the annexation include the *entire* island ([G.C. §56375\(a\)\(5\)](#)).

II. Purpose

It is the intent of the Commission to establish a policy that clearly defines the characteristics of islands in Napa County to allow for their streamlined annexation to cities and towns. This is consistent with the intent of the California Legislature when it enacted special legislation, originally adopted in 1977 and subsequently expanded, that made it possible for certain islands to be annexed *without* a protest hearing or election. In approving this legislation, the Legislature recognized the following:

- A) Islands continue to represent a serious and unnecessary statewide governmental inefficiency and that this inefficiency would be resolved if these islands were annexed into the appropriate surrounding city or town.
- B) Property owners’ ability to vote on boundary changes is a statutory privilege and not a constitutional right.
- C) Islands are inherently inefficient and that these inefficiencies affect not just residents within islands, but also those residing throughout the city or town and the county.

III. Annexation Procedures

In order to utilize the streamlined annexation provisions codified under [G.C. §56375.3](#), a city or town is required to initiate the process by adopting a resolution of application and submit the adopted resolution to the Commission. The Commission shall approve the annexation at a noticed public hearing and waive protest proceedings. The Commission may not disapprove the annexation. A property tax sharing agreement between the County and the affected city or town is required before the Commission may take final action on annexation consistent with [Revenue and Taxation Code §99](#). The Commission encourages any city or town to enter into tax sharing agreements for affected islands prior to adoption of a resolution of application.

IV. Local Policy Definition of “Island”

The Commission defines an “island” in Napa County to include unincorporated territory that meets all of the following criteria:

- A) Located entirely within a city or town’s sphere of influence;
- B) Does not exceed 150 acres in size;
- C) Does not contain prime agricultural land as defined in the Cortese-Knox-Hertzberg Act ([G.C. §56064](#));
- D) Does not contain lands subject to Measure P or has a General Plan designation of Agricultural Resource or Agriculture, Watershed and Open Space as reflected in the County of Napa General Plan Land Use Map;
- E) Designated for urban development in the general plan of the annexing city or town;
- F) Surrounded or substantially surrounded by the annexing city or town. Substantially surrounded territory is unincorporated territory with an outer boundary that is 50% or more contiguous to the annexing city or town’s jurisdictional boundary;
- G) The outer boundary is the annexing city or town’s jurisdictional boundary, the annexing city or town’s sphere of influence, and/or property owned by the State of California;
- H) The territory is developed or developing. This determination is based on the availability of public utilities, the presence of public improvements, or the presence of physical improvements on the parcels within the area; and
- I) The territory is currently receiving municipal service benefits from the annexing city or town, or would benefit from the city or town following annexation.

Unincorporated Areas Within a City or Town's Sphere of Influence

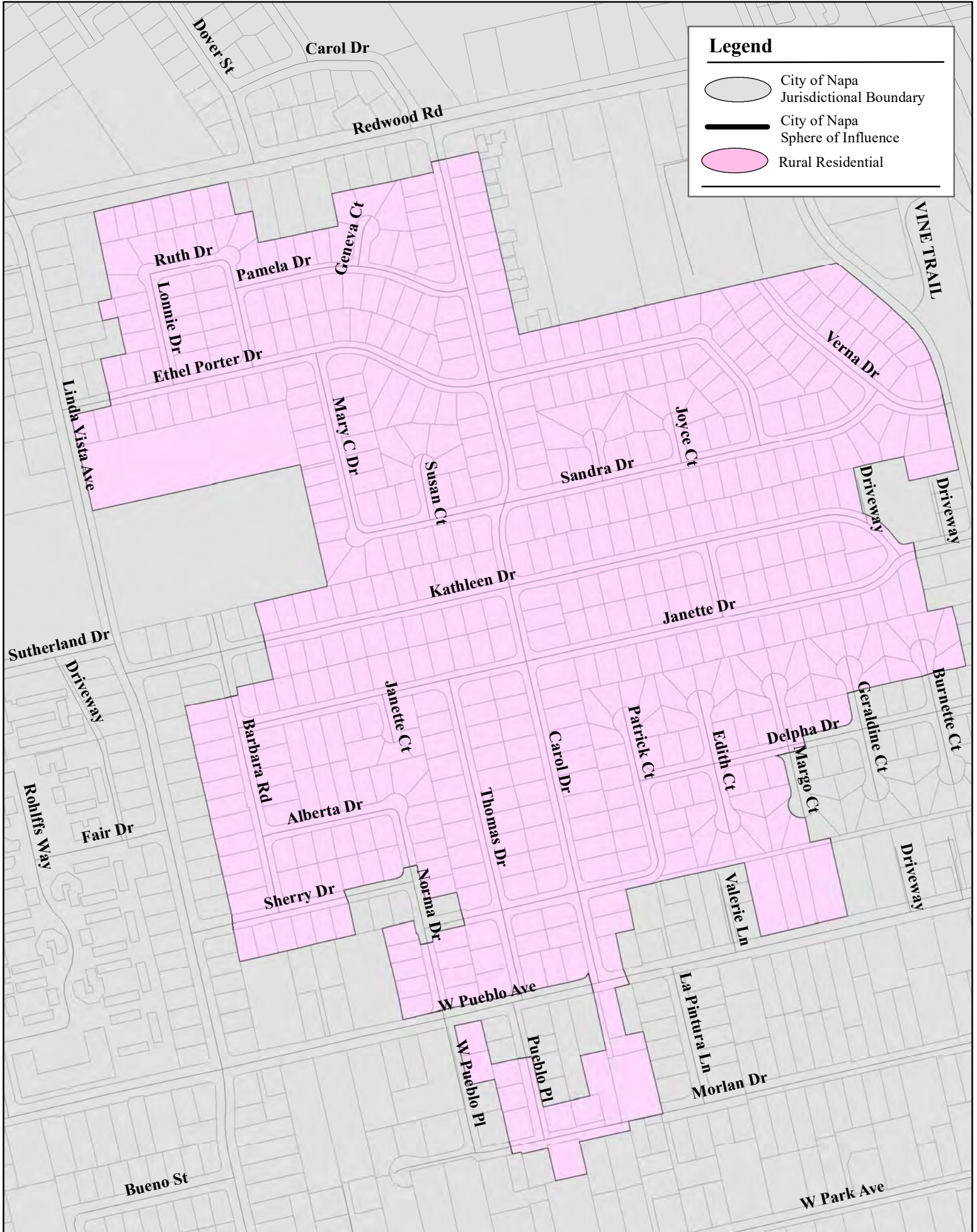
| <i>Island Vicinity</i> | <i>Surrounding City/Town</i> | <i>Surrounded By City/Town (%)</i> | <i>Total Acres</i> | <i>Total Parcels</i> | <i>Developed Parcels</i> | <i>Estimated Population</i> | <i>Public Water Service (%)</i> | <i>Public Sewer Service (%)</i> | <i>Urban City/Town General Plan Designation (%)</i> | <i>Prime Agriculture</i> | <i>Designated Agriculture County General Plan (%)</i> | <i>Subject to Measure P</i> |
|-----------------------------------|------------------------------|------------------------------------|--------------------|----------------------|--------------------------|-----------------------------|---------------------------------|---------------------------------|---|--------------------------|---|-----------------------------|
| West Pueblo / Linda Vista | Napa | 100 | 87.4 | 543 | 538 | 1399 | 98 | 100 | 100 | No | 0 | No |
| West Pueblo / West Park | Napa | 100 | 10.1 | 19 | 18 | 47 | 68 | 100 | 100 | No | 0 | No |
| Browns Valley / Kingston | Napa | 100 | 14.8 | 11 | 10 | 26 | 55 | 22 | 100 | No | 0 | No |
| West F / Solano | Napa | 100 | 6.7 | 13 | 13 | 34 | 100 | 100 | 100 | No | 0 | No |
| Terrace / Wyatt | Napa | 100 | 1.6 | 6 | 6 | 16 | 50 | 100 | 100 | No | 0 | No |
| Terrace / Mallard | Napa | 100 | 2.2 | 3 | 3 | 8 | 0 | 100 | 100 | No | 0 | No |
| Wilkins / Shetler | Napa | 100 | 0.6 | 2 | 2 | 5 | 50 | 100 | 100 | No | 0 | No |
| Silverado / Saratoga | Napa | 100 | 1.9 | 1 | 1 | 3 | 0 | 100 | 100 | No | 0 | No |
| Imola / Parrish | Napa | 93 | 32.0 | 213 | 208 | 541 | 97 | 100 | 100 | No | 0 | No |
| Silverado / Stonecrest | Napa | 82 | 23.6 | 10 | 10 | 26 | 80 | 49 | 100 | No | 0 | No |
| Imola / Tejas | Napa | 71 | 5.3 | 16 | 16 | 42 | 81 | 100 | 100 | No | 0 | No |
| Shurtleff / Hillside | Napa | 70 | 2.5 | 3 | 2 | 5 | 0 | 100 | 100 | No | 0 | No |
| Devita / Hilltop * | Napa | 50 | 0.2 | 1 | 1 | 3 | 100 | 100 | 100 | No | 0 | No |
| Saratoga / Capitola | Napa | 100 | 3.6 | 4 | 3 | 8 | 0 | 100 | 100 | Yes | 0 | No |
| Shurtleff / Cayetano | Napa | 100 | 3.5 | 4 | 3 | 8 | 75 | 100 | 100 | Yes | 0 | No |
| Foster / Grandview | Napa | 81 | 7.6 | 6 | 6 | 16 | 83 | 0 | 100 | No | 10 | Yes |
| Redwood / Lynn | Napa | 79 | 7.1 | 16 | 14 | 36 | 88 | 0 | 100 | Yes | 15 | Yes |
| Basalt / Kaiser | Napa | 94 | 70.4 | 3 | 0 | 0 | 0 | 33 | 0 | Yes | 10 | Yes |
| Redwood / Montana | Napa | 76 | 8.1 | 4 | 4 | 10 | 100 | 17 | 100 | No | 90 | Yes |
| Penny / Madrid | Napa | 66 | 2.9 | 5 | 5 | 13 | 0 | 100 | 100 | No | 100 | Yes |
| Redwood / Forest | Napa | 59 | 22.7 | 23 | 21 | 55 | 78 | 100 | 100 | Yes | 20 | Yes |
| Hilltop / Griggs | Napa | 56 | 6.0 | 4 | 3 | 8 | 75 | 100 | 100 | No | 80 | Yes |
| Big Ranch / Rosewood | Napa | 55 | 66.3 | 12 | 9 | 23 | 0 | 100 | 100 | Yes | 0 | No |
| Foster / Golden Gate | Napa | 52 | 146.8 | 9 | 6 | 16 | 0 | 100 | 100 | Yes | 15 | Yes |
| Penny / Imola | Napa | 50 | 3.3 | 2 | 2 | 5 | 0 | 100 | 100 | No | 100 | Yes |
| Napa State Hospital / County Jail | Napa | 35 | 348.4 | 5 | 4 | 1100 | 100 | 100 | 0 | No | 5 | No |
| Watson / Paoli | American Canyon | 77 | 77.7 | 16 | 11 | 29 | 81 | 13 | 100 | Yes | 35 | Yes |
| Wastewater Pond | Calistoga | 50 | 5.3 | 1 | 1 | 0 | 0 | 0 | 0 | Yes | 100 | Yes |
| Domaine Chandon | Yountville | 50 | 8.8 | 1 | 1 | 0 | 0 | 100 | 100 | No | 100 | No |
| Totals | | N/A | 977.2 | 956 | 921 | 3479 | 18 Areas > 0% | 26 Areas > 0% | 27 Areas > 0% | 9 Yes / 20 No | 13 Areas > 0% | 11 Yes / 18 No |

13 areas meet the local policy definition of "island" and are eligible for streamlined annexation

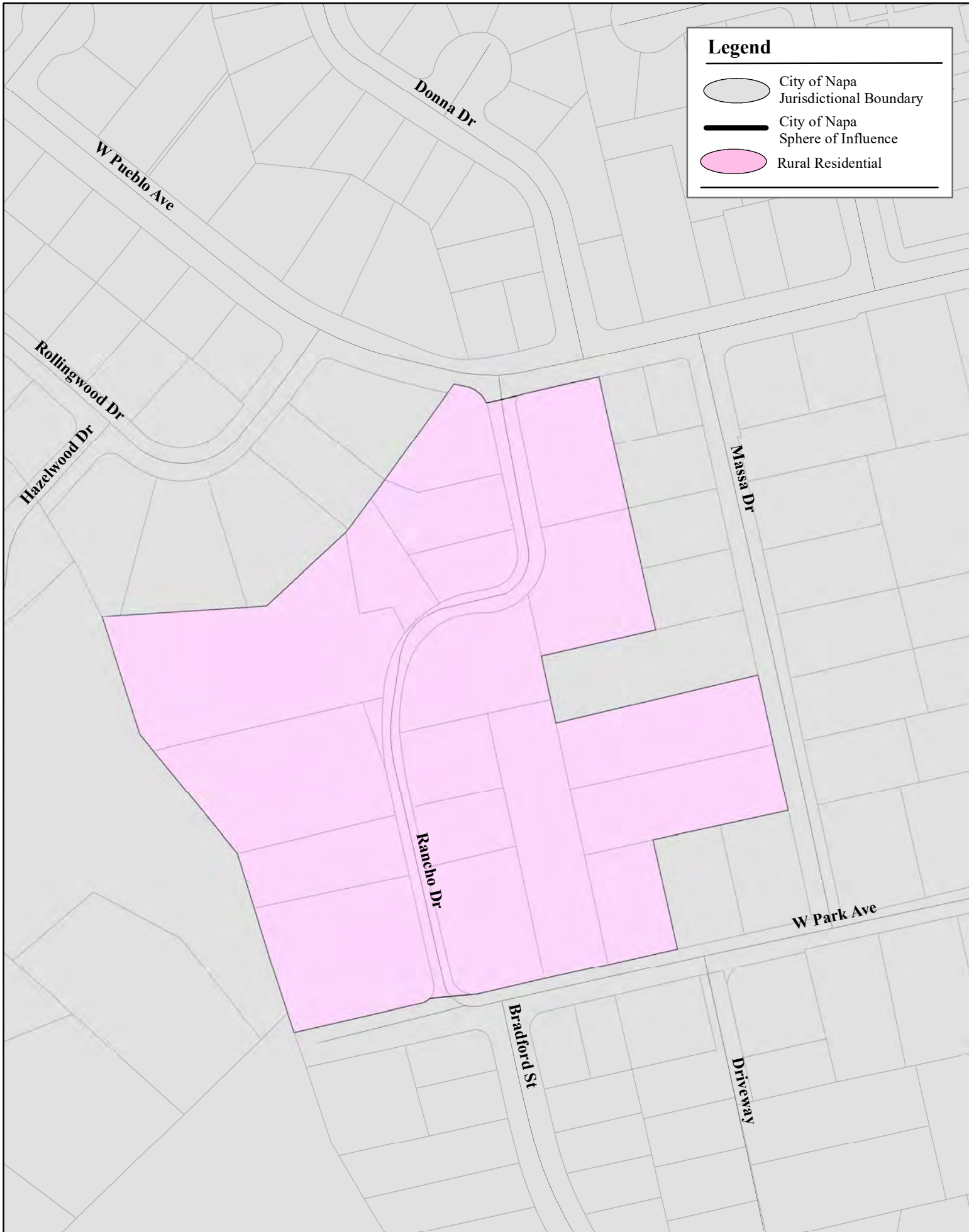
16 areas do not meet the definition of "island" pursuant to local policy

* Requires confirmation of % of perimeter surrounded by city/town

West Pueblo / Linda Vista (100% Surrounded)






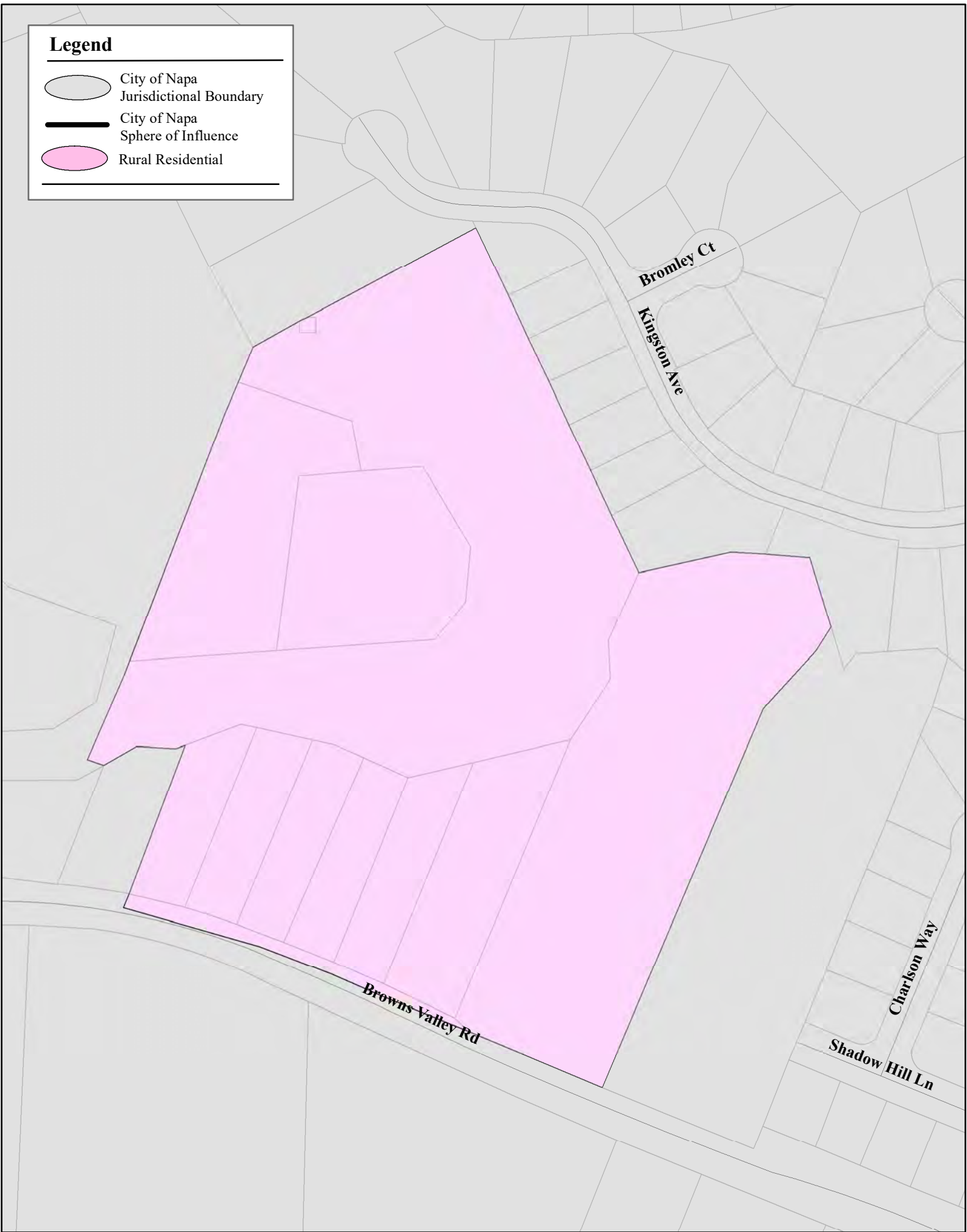
West Pueblo / West Park (100% Surrounded)



Browns Valley / Kingston (100% Surrounded)




Legend

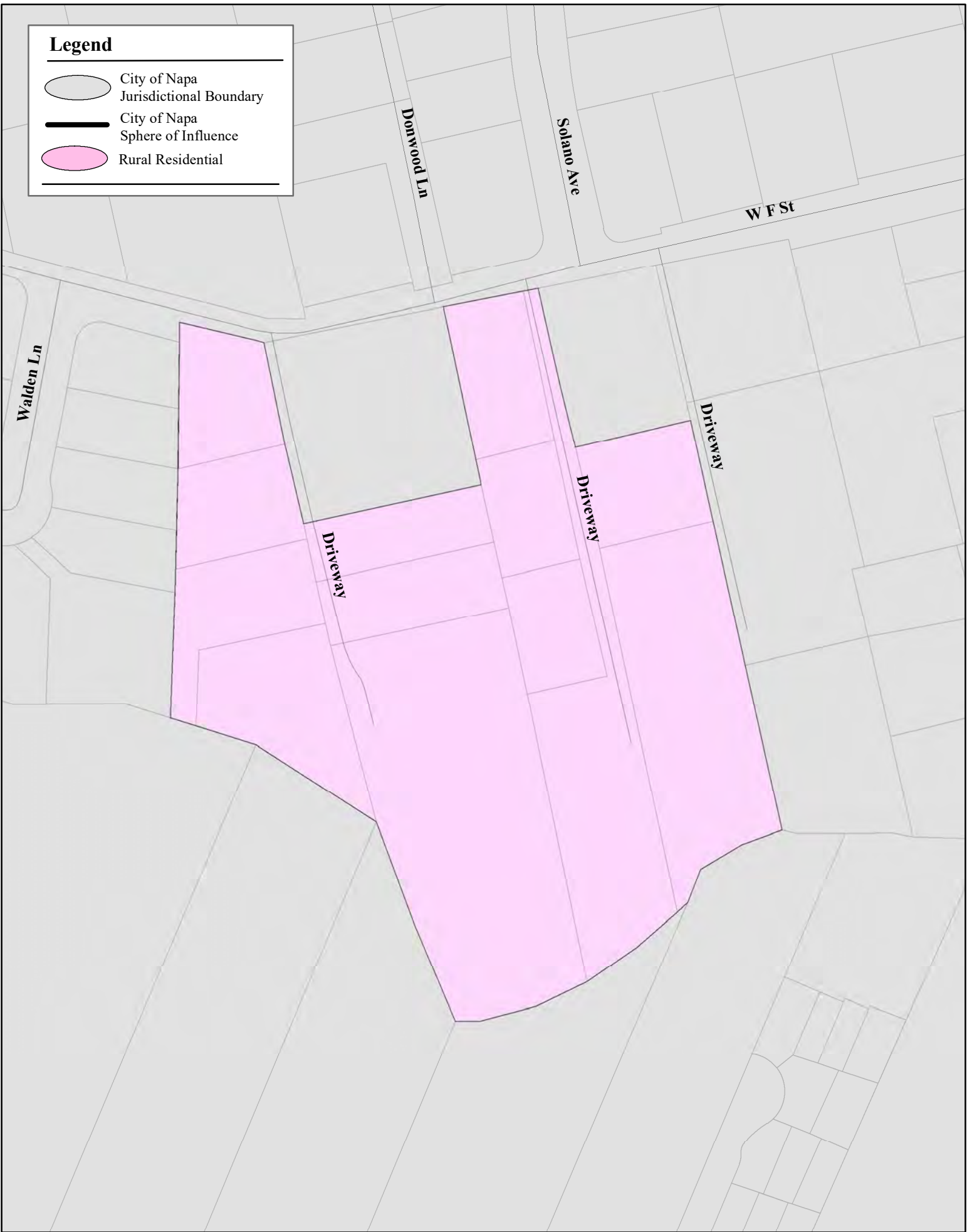
-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Rural Residential



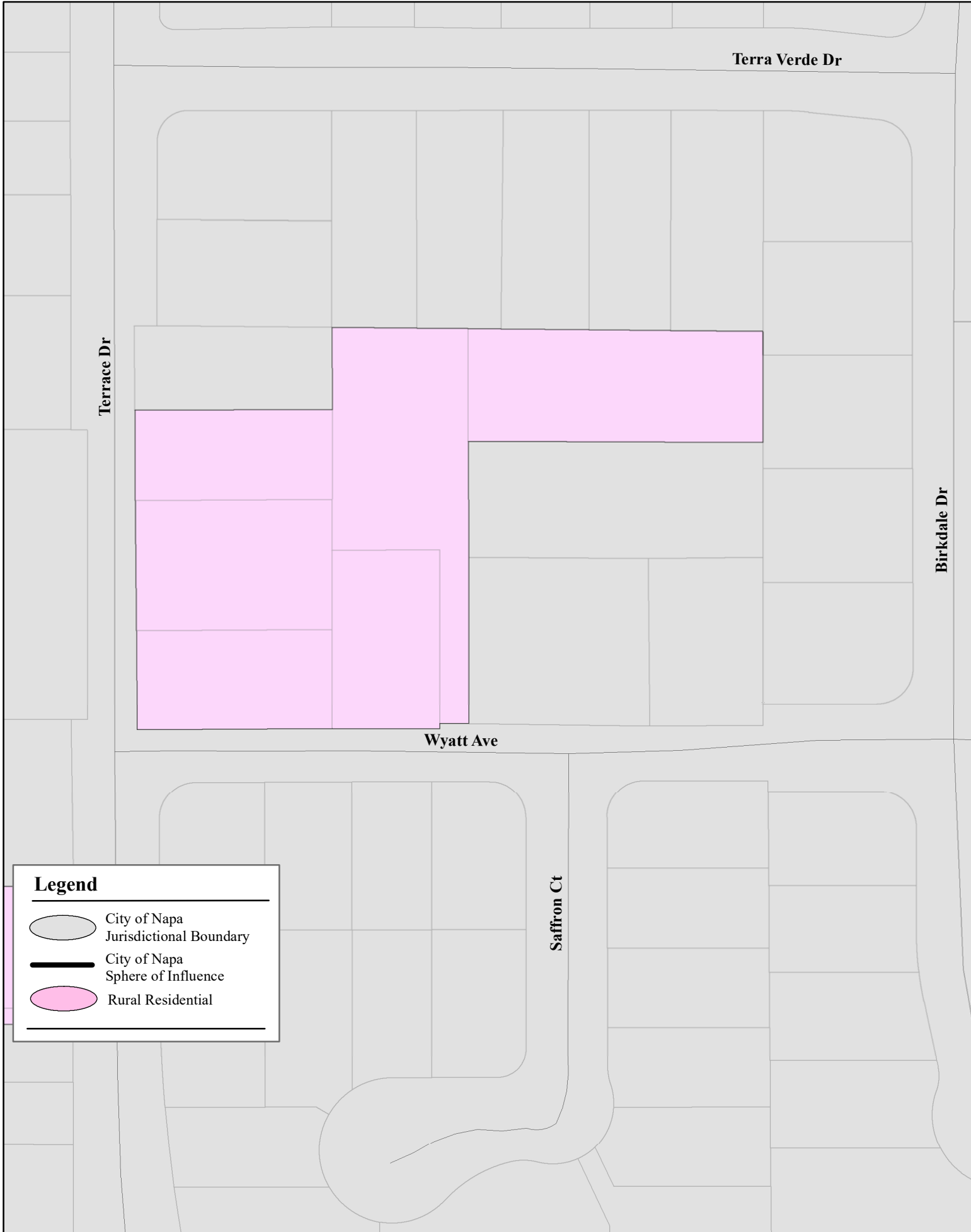
West F / Solano (100% Surrounded)

Legend




-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Rural Residential



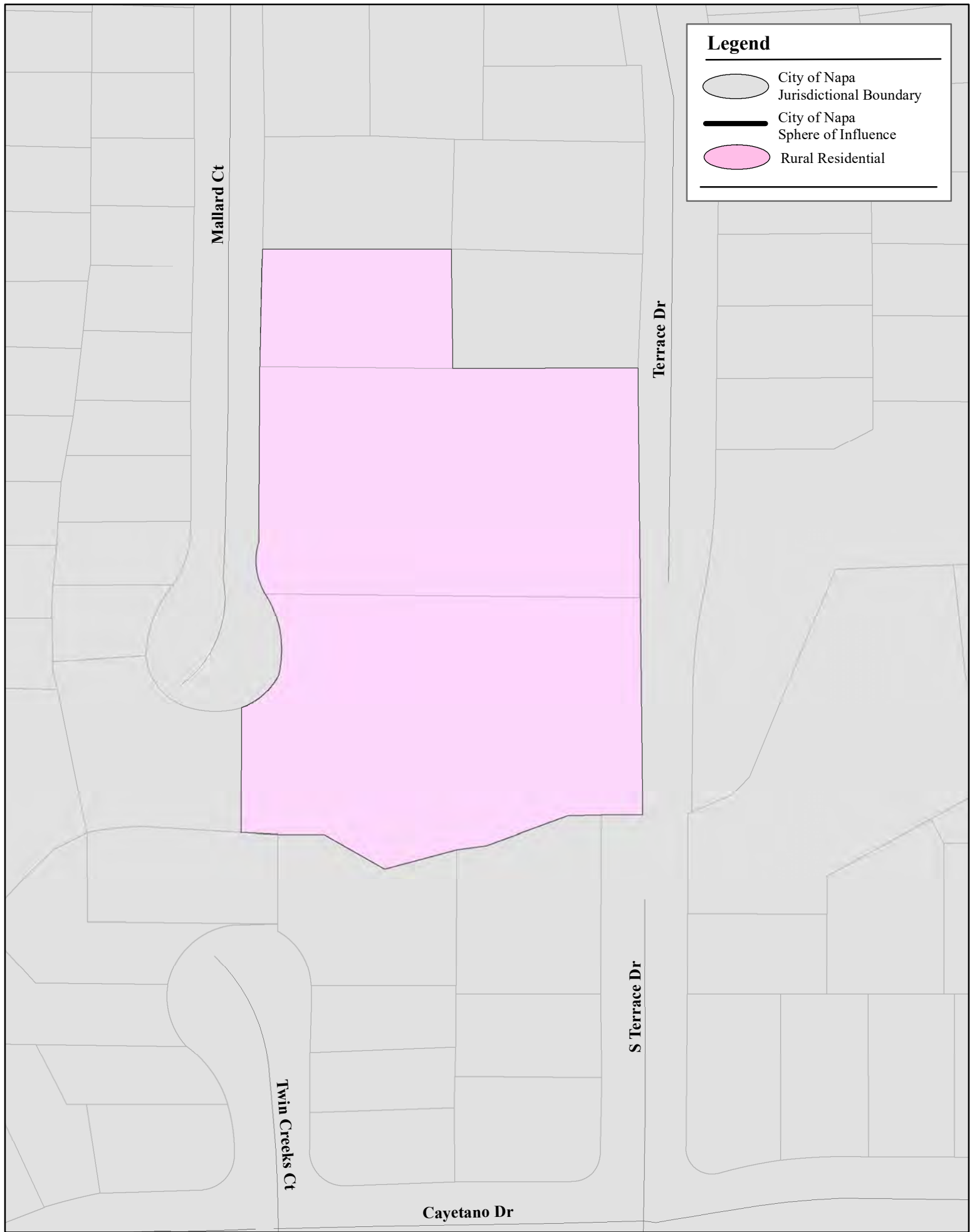
Terrace / Wyatt (100% Surrounded)



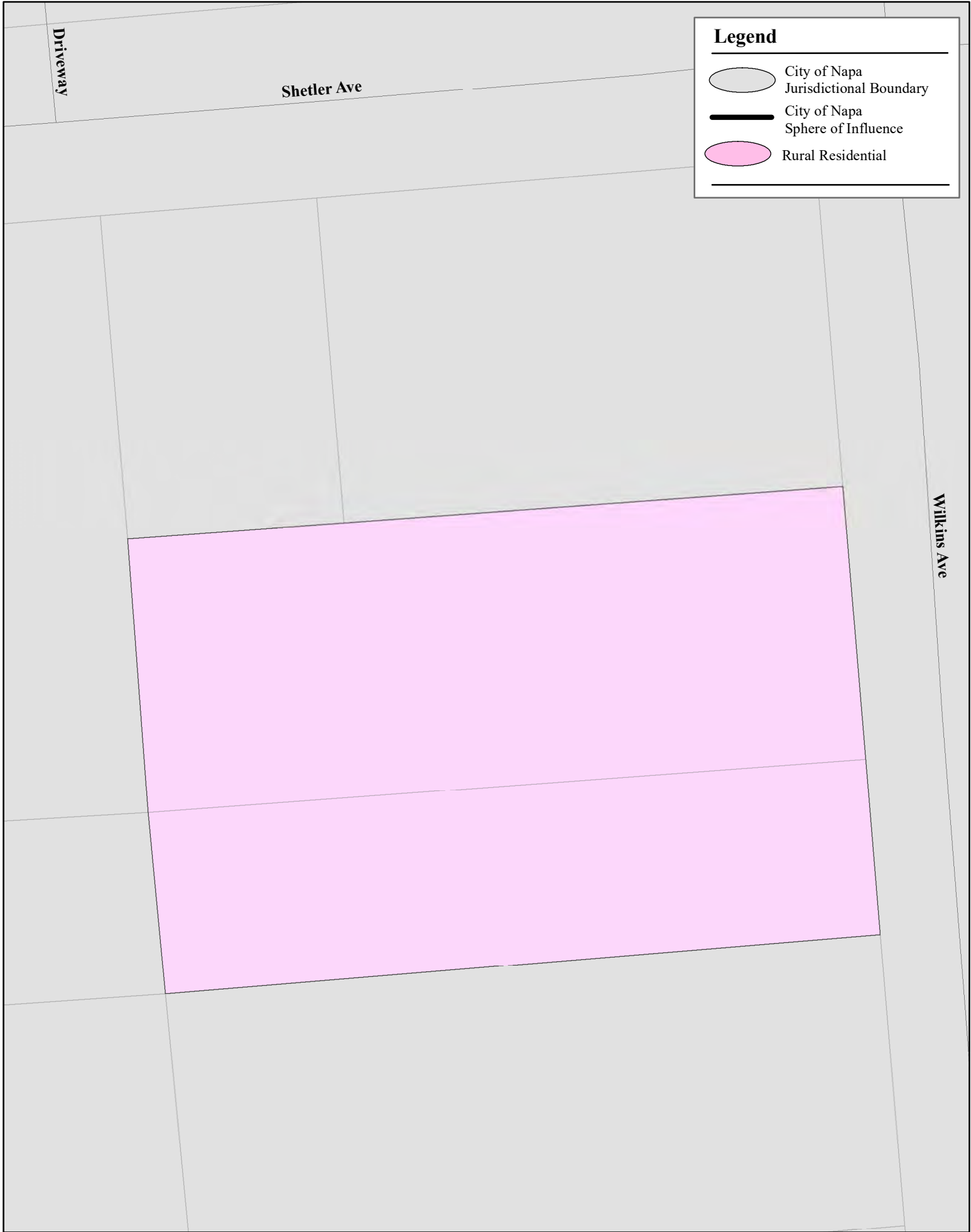
Legend

-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Rural Residential




Terrace / Mallard (100% Surrounded)



Wilkins / Shetler (100% Surrounded)






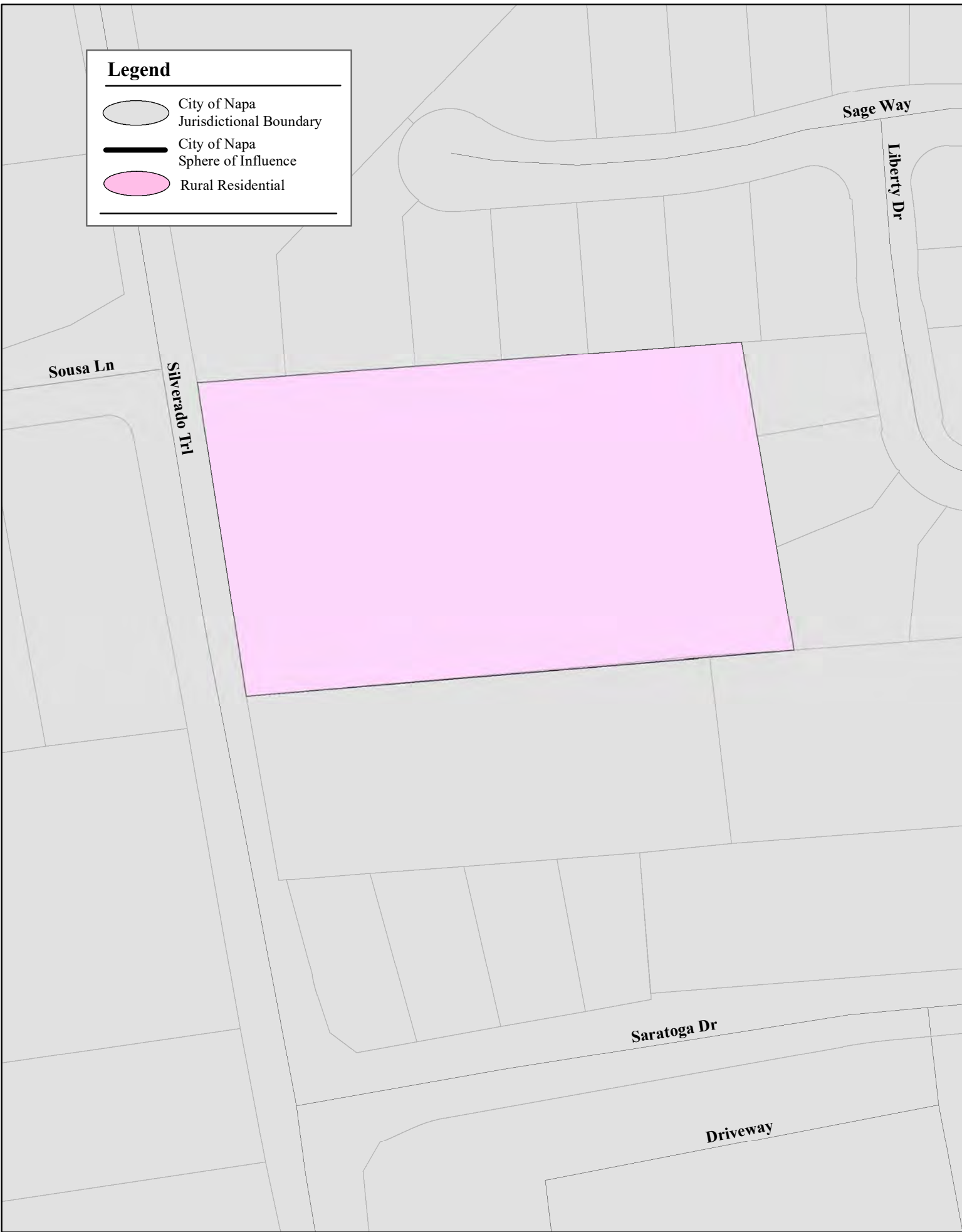
Legend

-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Rural Residential

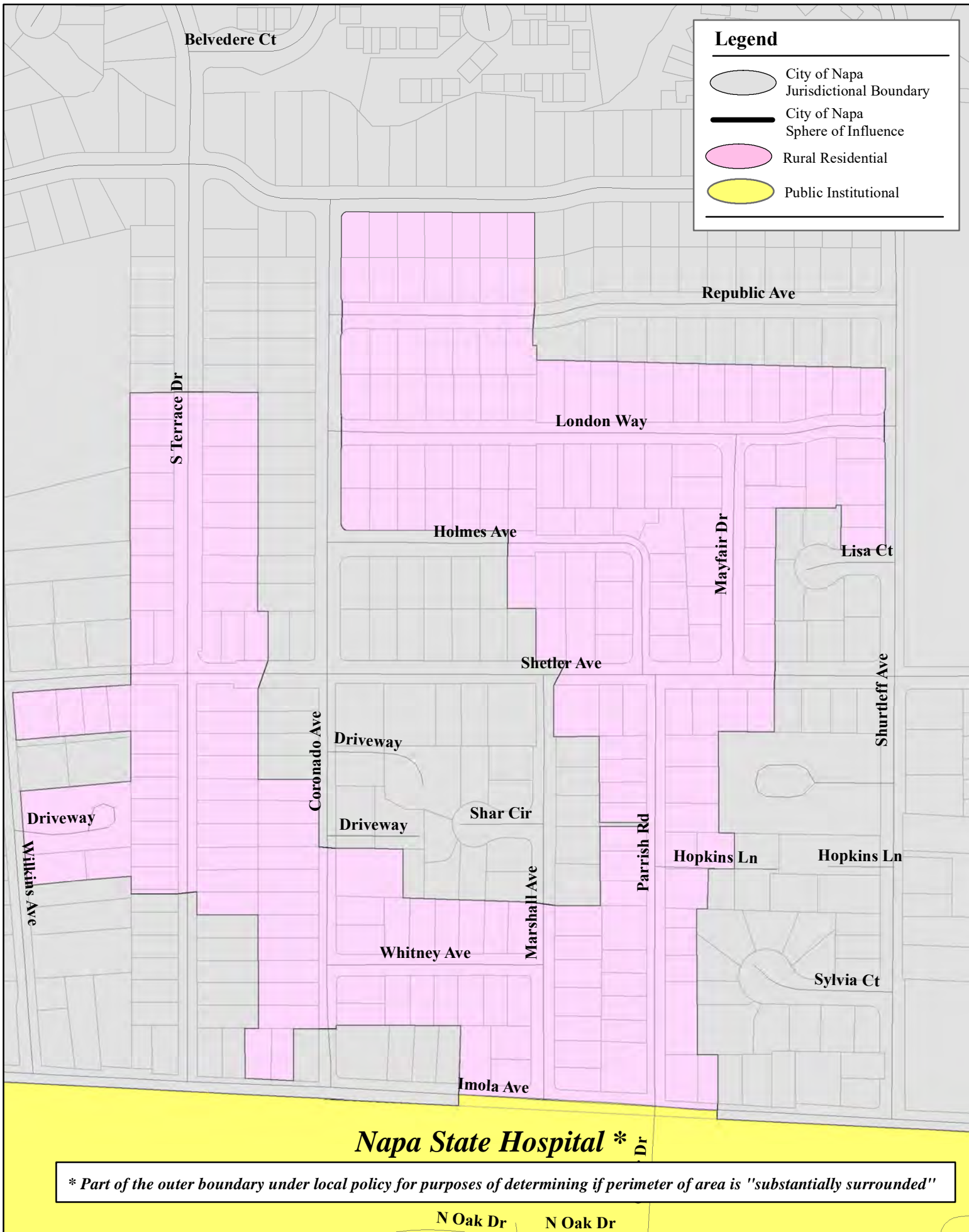
Silverado / Saratoga (100% Surrounded)

Legend





-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Rural Residential



Imola / Parrish (93% Surrounded)



Legend

-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Rural Residential
-  Public Institutional







*Napa State Hospital * Dr*

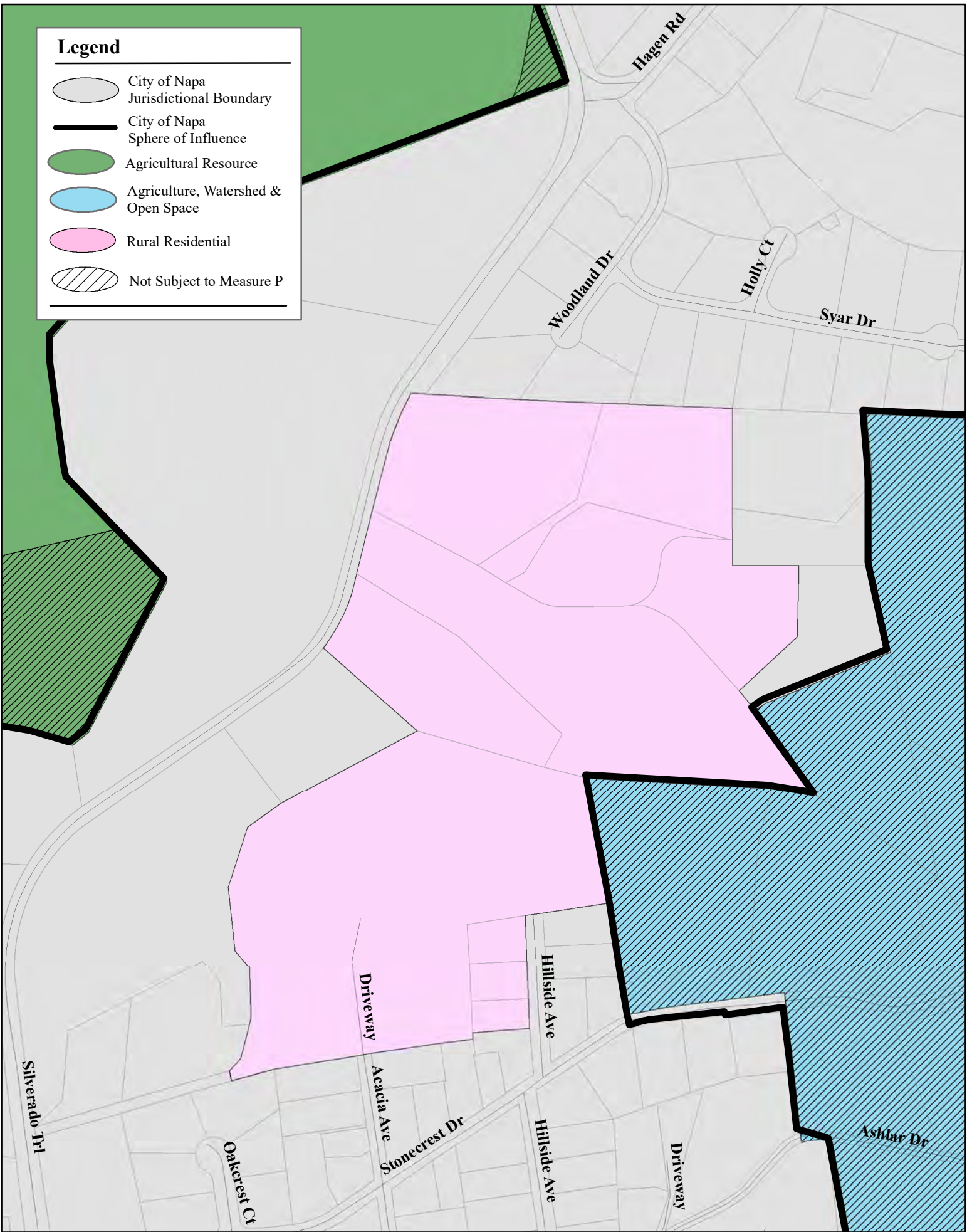
** Part of the outer boundary under local policy for purposes of determining if perimeter of area is "substantially surrounded"*

N Oak Dr N Oak Dr

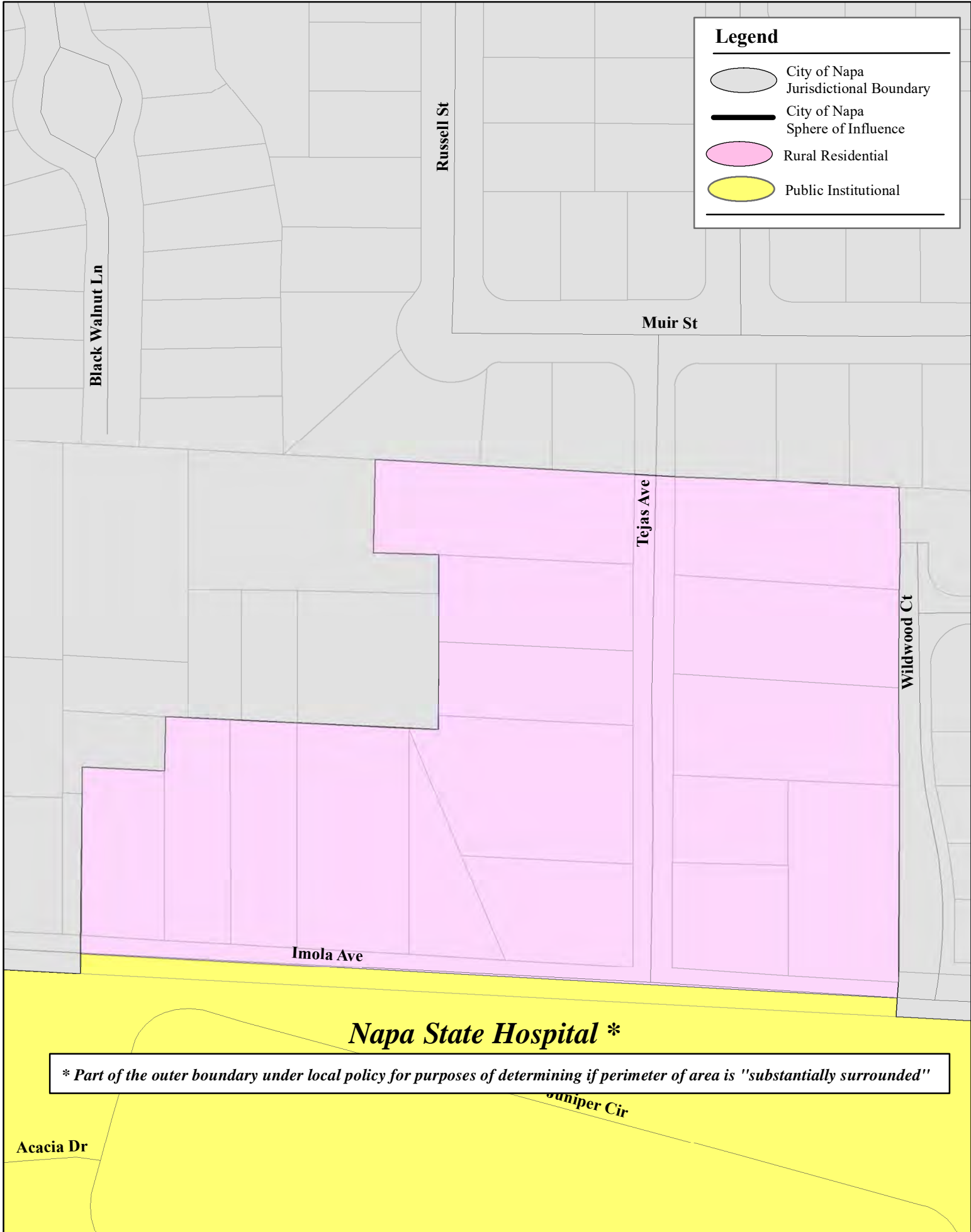
Silverado / Stonecrest (82% Surrounded)

Legend

-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Agricultural Resource
-  Agriculture, Watershed & Open Space
-  Rural Residential
-  Not Subject to Measure P



Imola / Tejas (71% Surrounded)








** Part of the outer boundary under local policy for purposes of determining if perimeter of area is "substantially surrounded"*

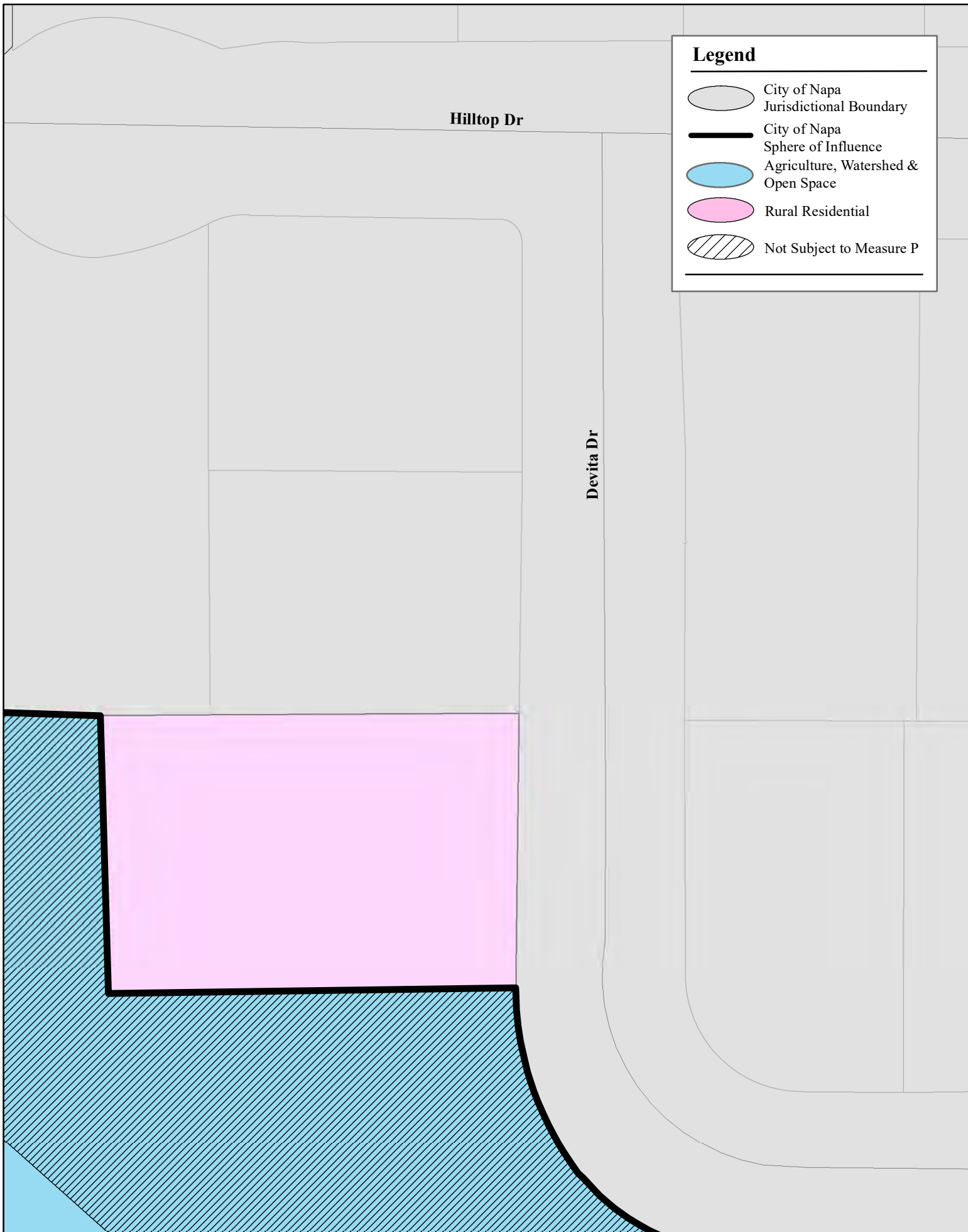
Shurtleff / Hillside (70% Surrounded)



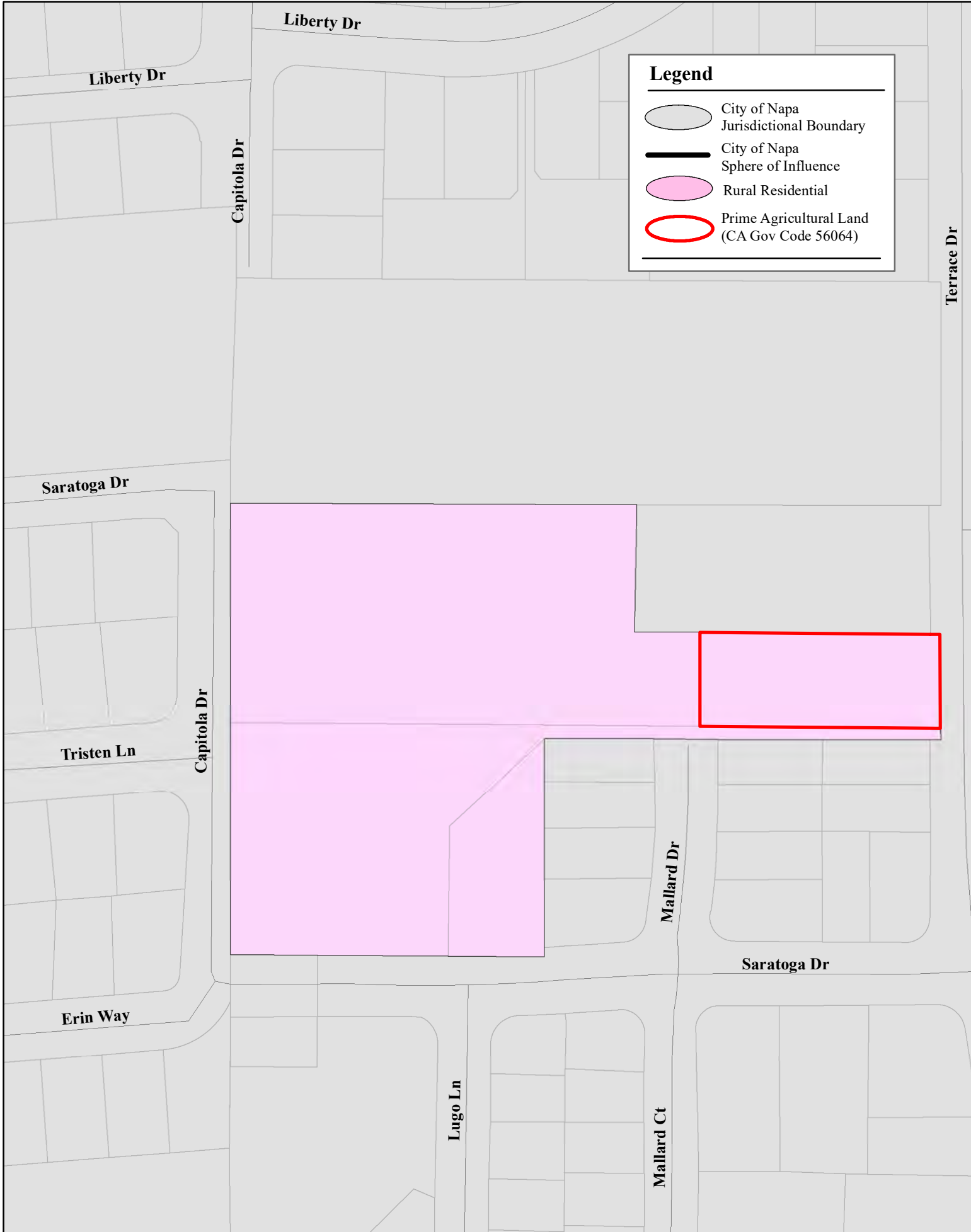
Legend

-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Agriculture, Watershed & Open Space
-  Rural Residential
-  Not Subject to Measure P

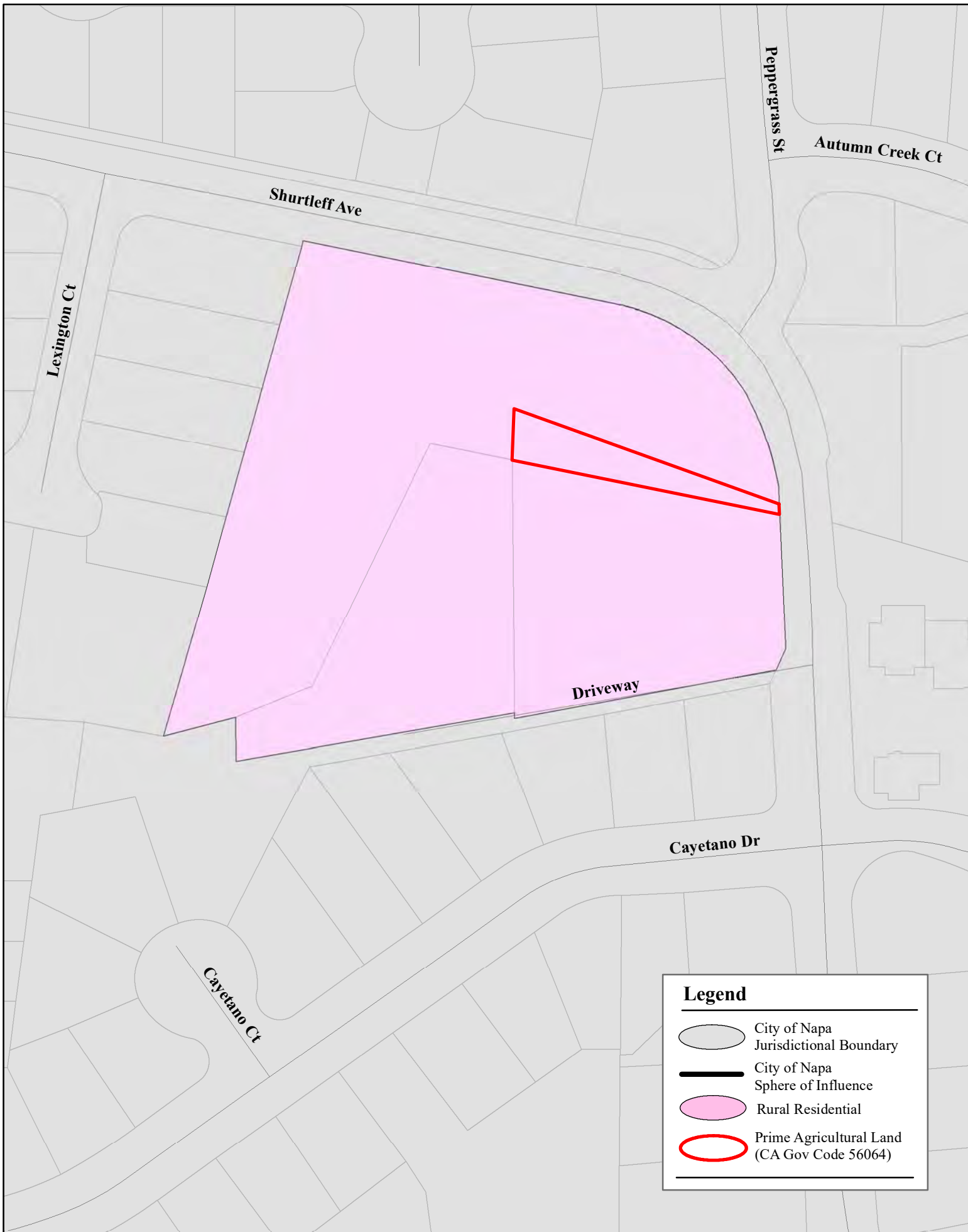
Devita / Hilltop (50% Surrounded)



Saratoga / Capitola (100% Surrounded)








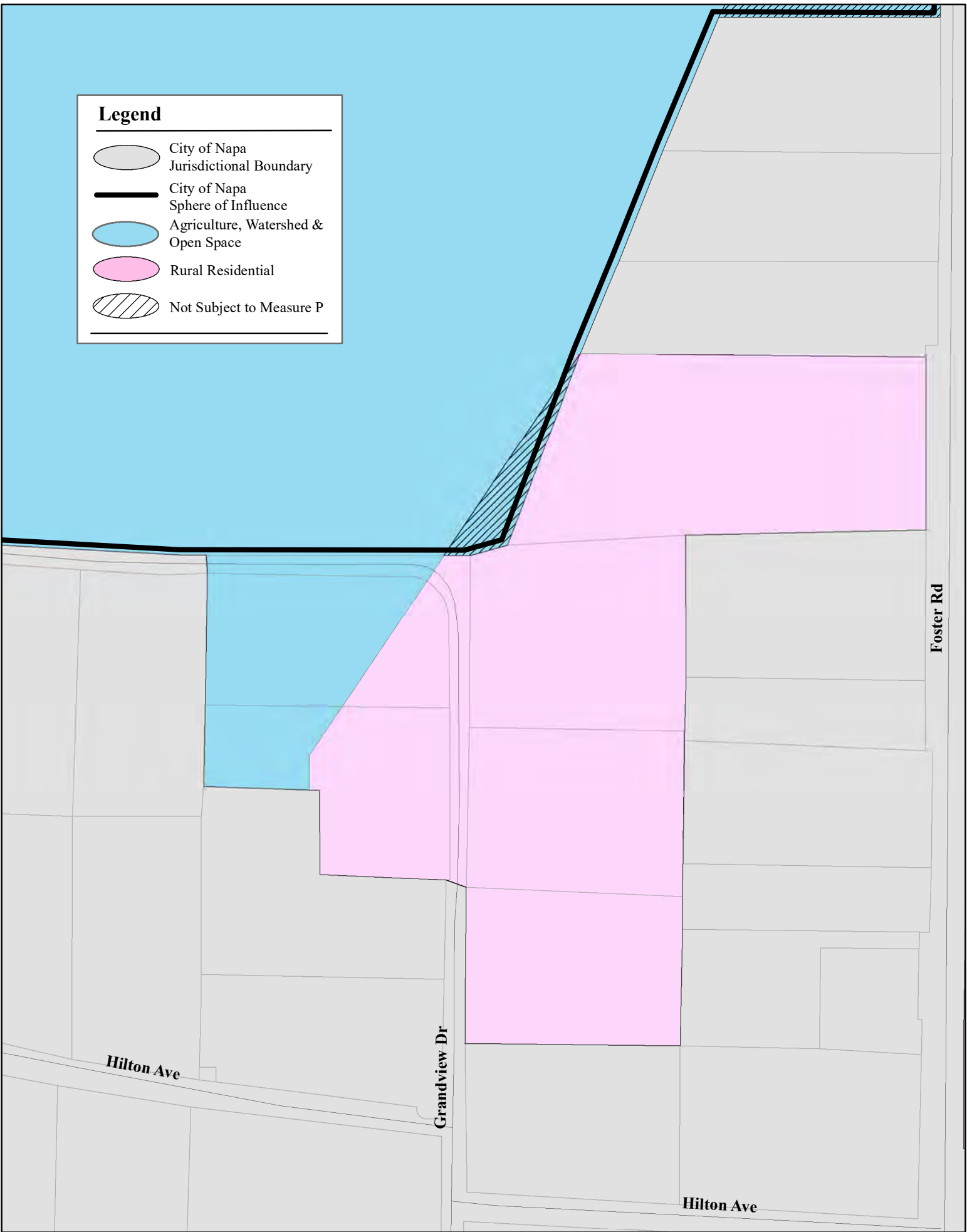
Shurtleff / Cayetano (100% Surrounded)



Foster / Grandview (81% Surrounded)





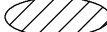

Legend

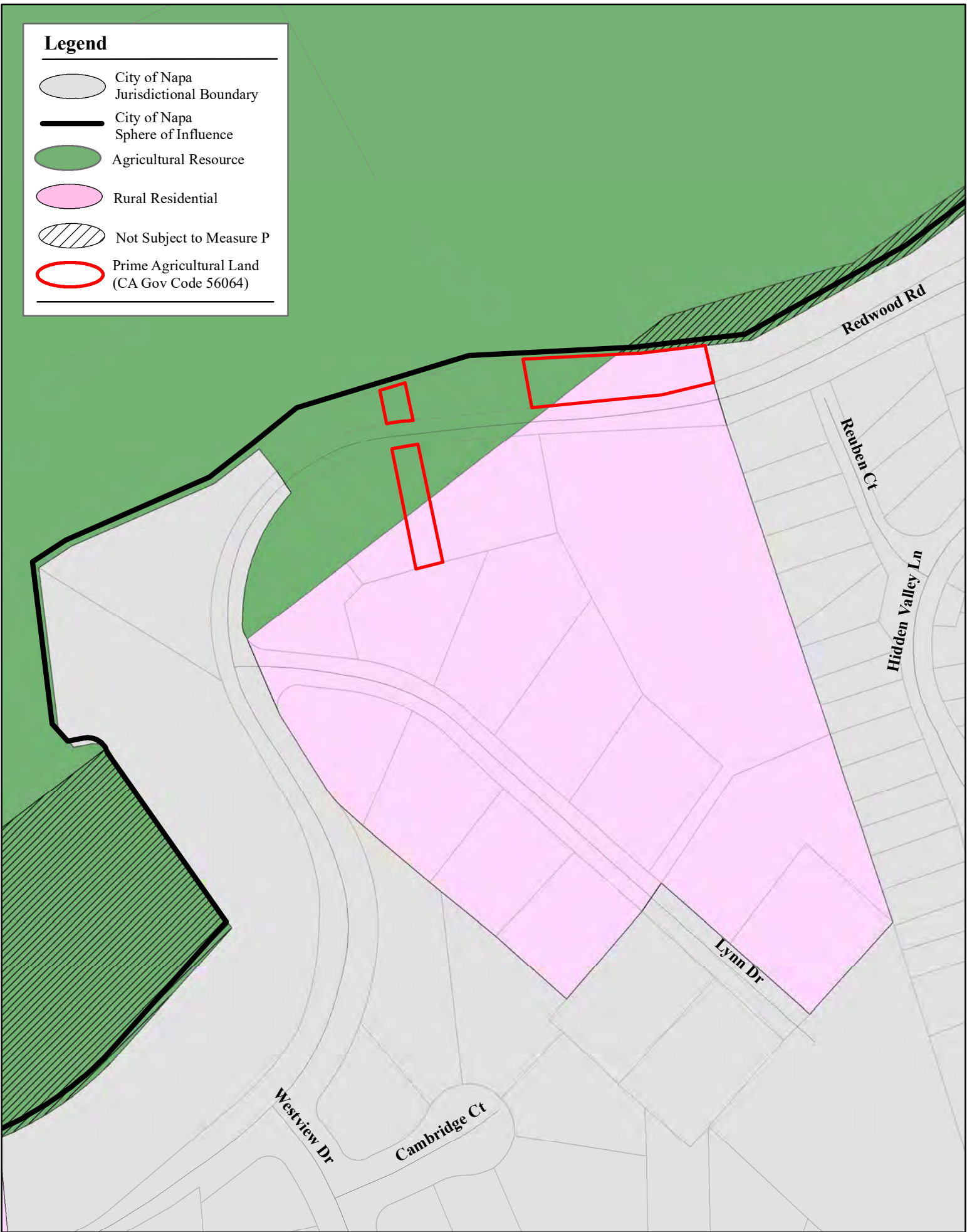
-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Agriculture, Watershed & Open Space
-  Rural Residential
-  Not Subject to Measure P



Redwood / Lynn (79% Surrounded)








Legend

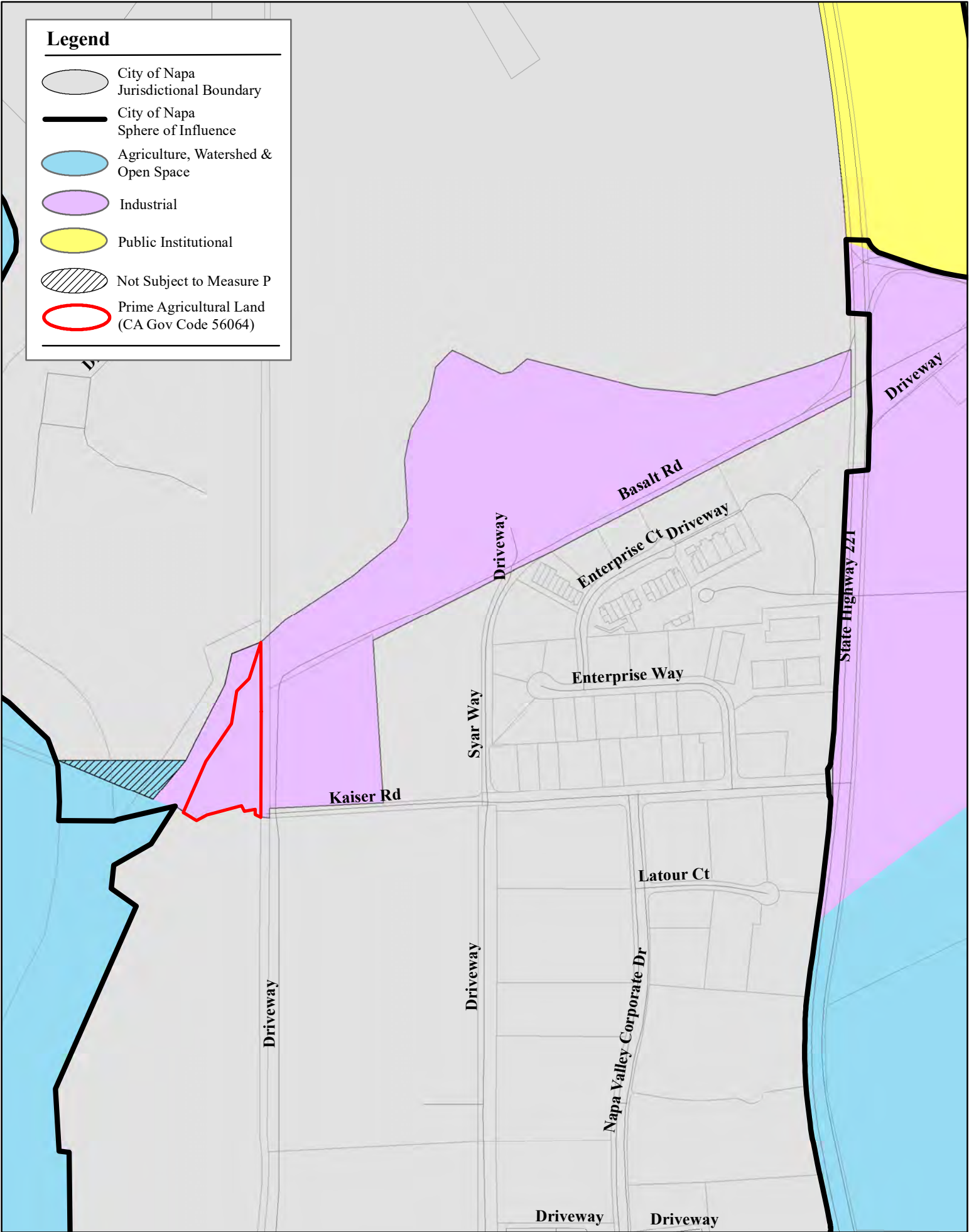
-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Agricultural Resource
-  Rural Residential
-  Not Subject to Measure P
-  Prime Agricultural Land (CA Gov Code 56064)



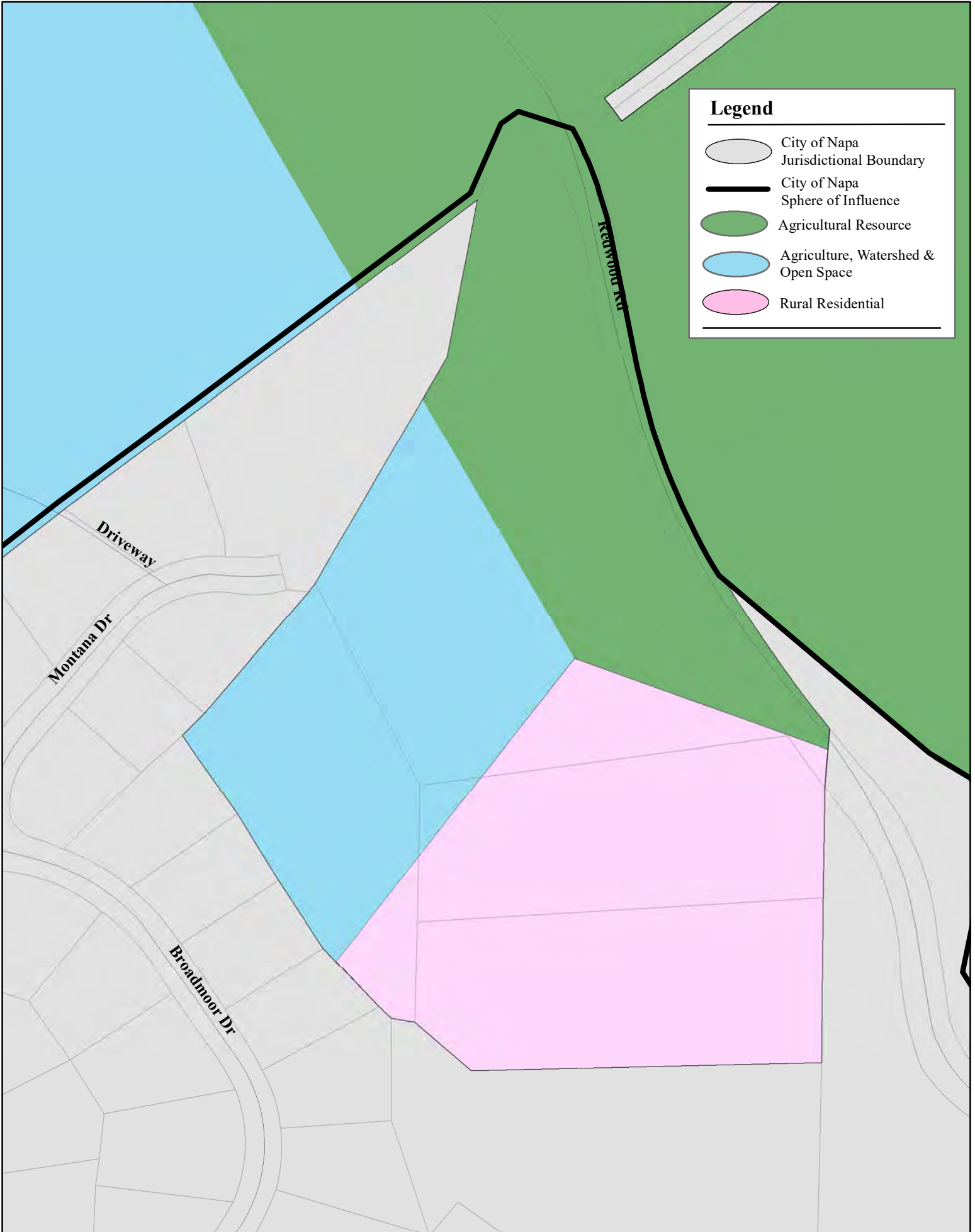
Basalt / Kaiser (94% Surrounded)

Legend

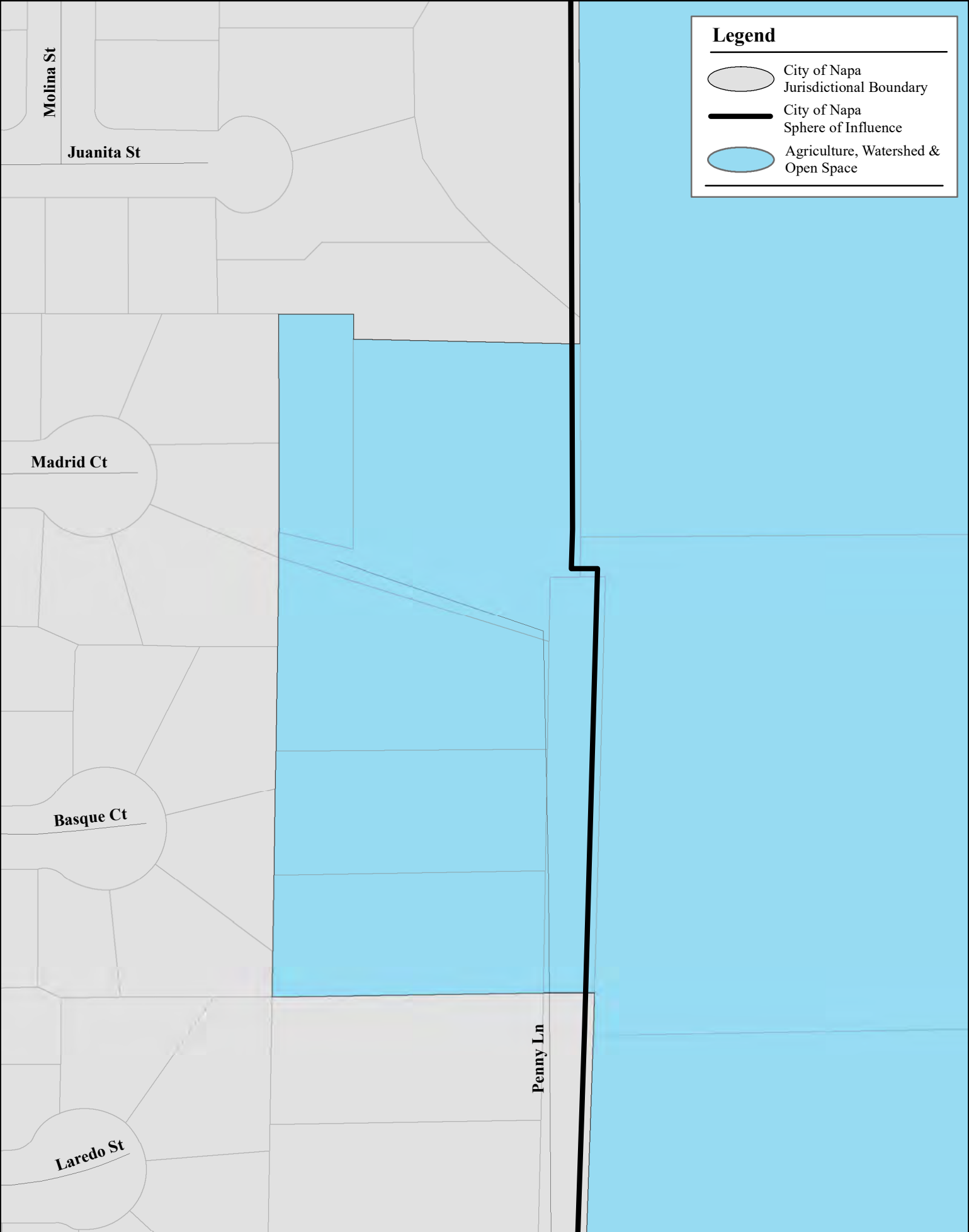
-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Agriculture, Watershed & Open Space
-  Industrial
-  Public Institutional
-  Not Subject to Measure P
-  Prime Agricultural Land (CA Gov Code 56064)






Redwood / Montana (76% Surrounded)



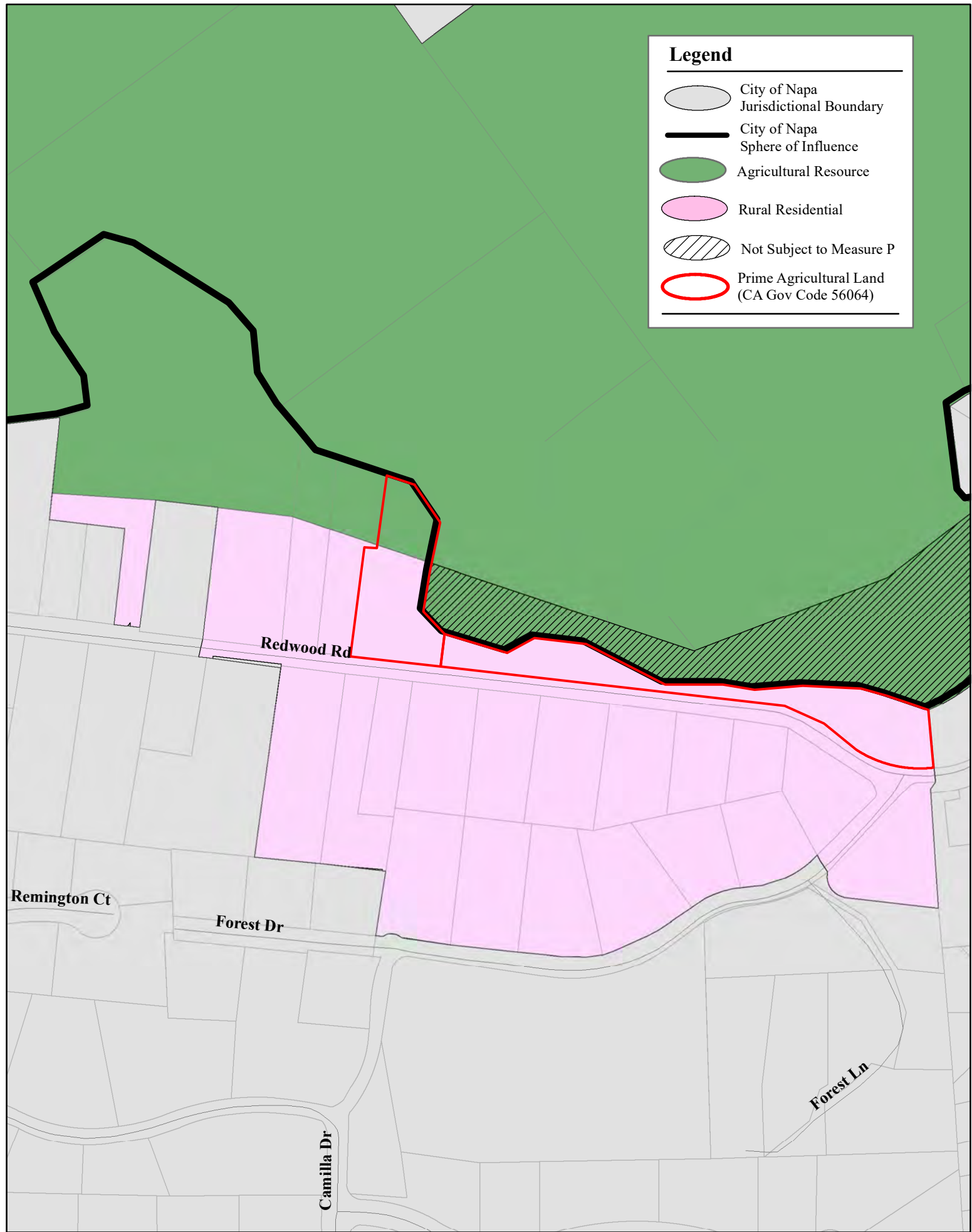
Penny / Madrid (66% Surrounded)



Legend

-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Agriculture, Watershed & Open Space

Redwood / Forest (59% Surrounded)








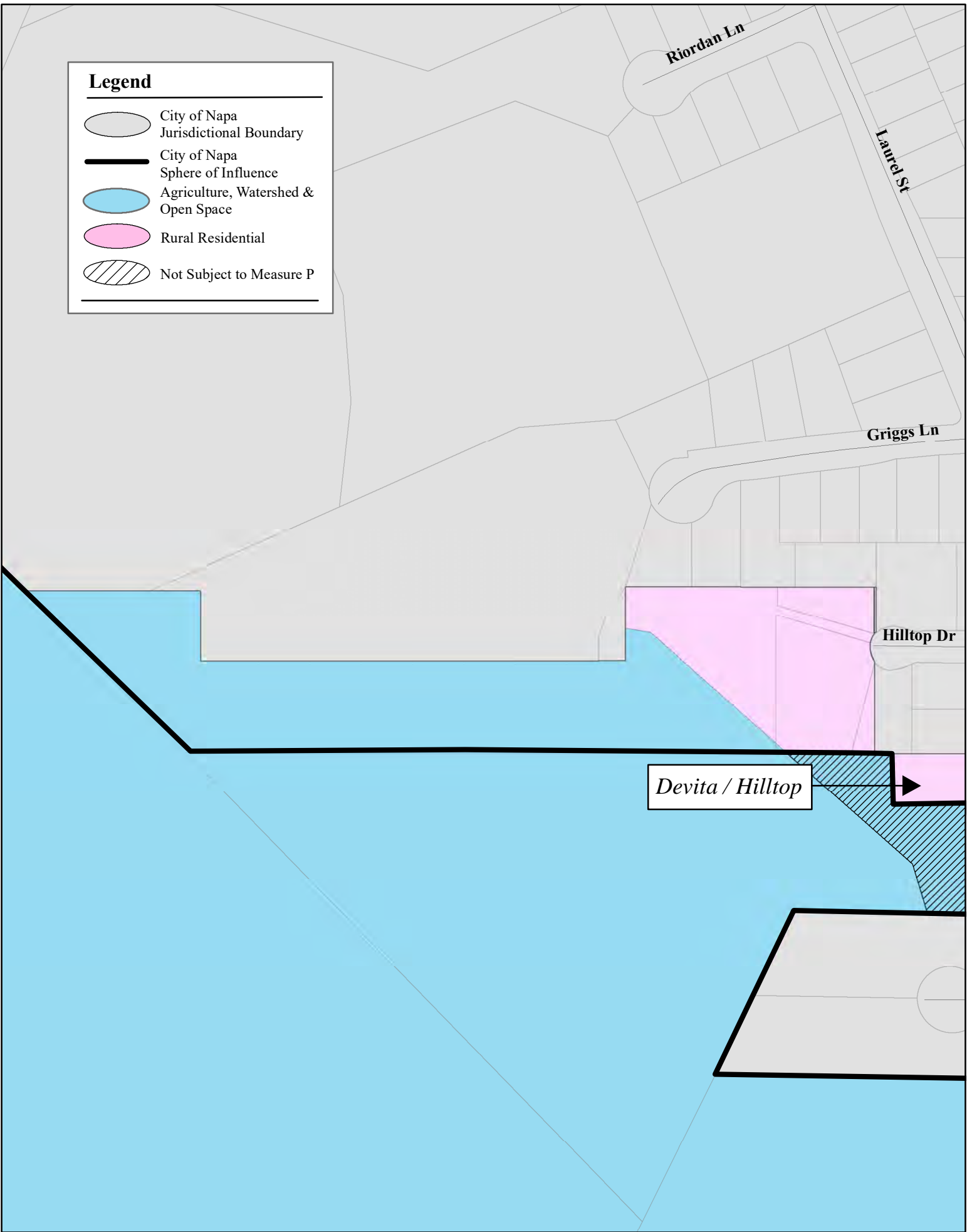
Legend

- City of Napa Jurisdictional Boundary
- City of Napa Sphere of Influence
- Agricultural Resource
- Rural Residential
- Not Subject to Measure P
- Prime Agricultural Land (CA Gov Code 56064)

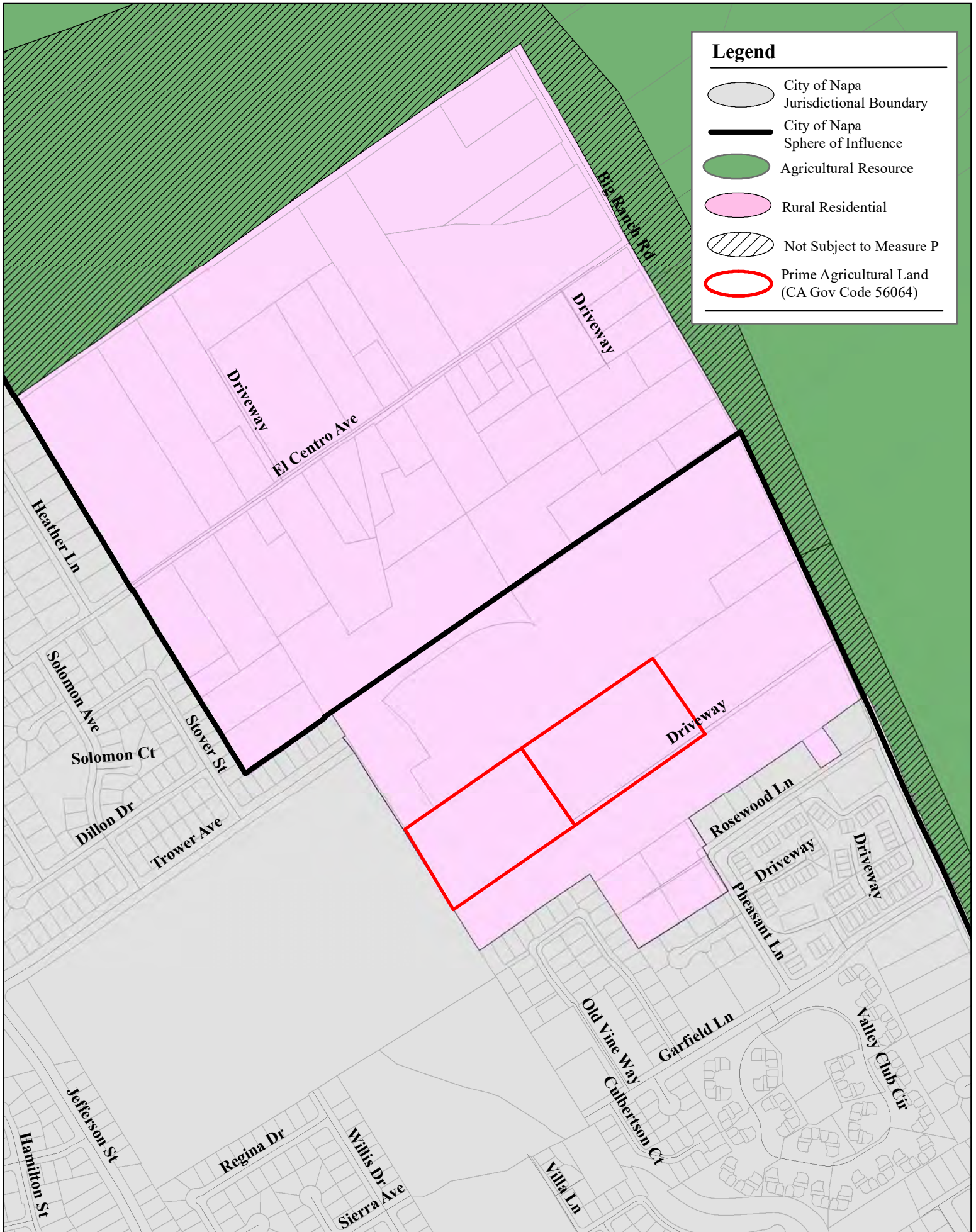
Hilltop / Griggs (56% Surrounded)

Legend

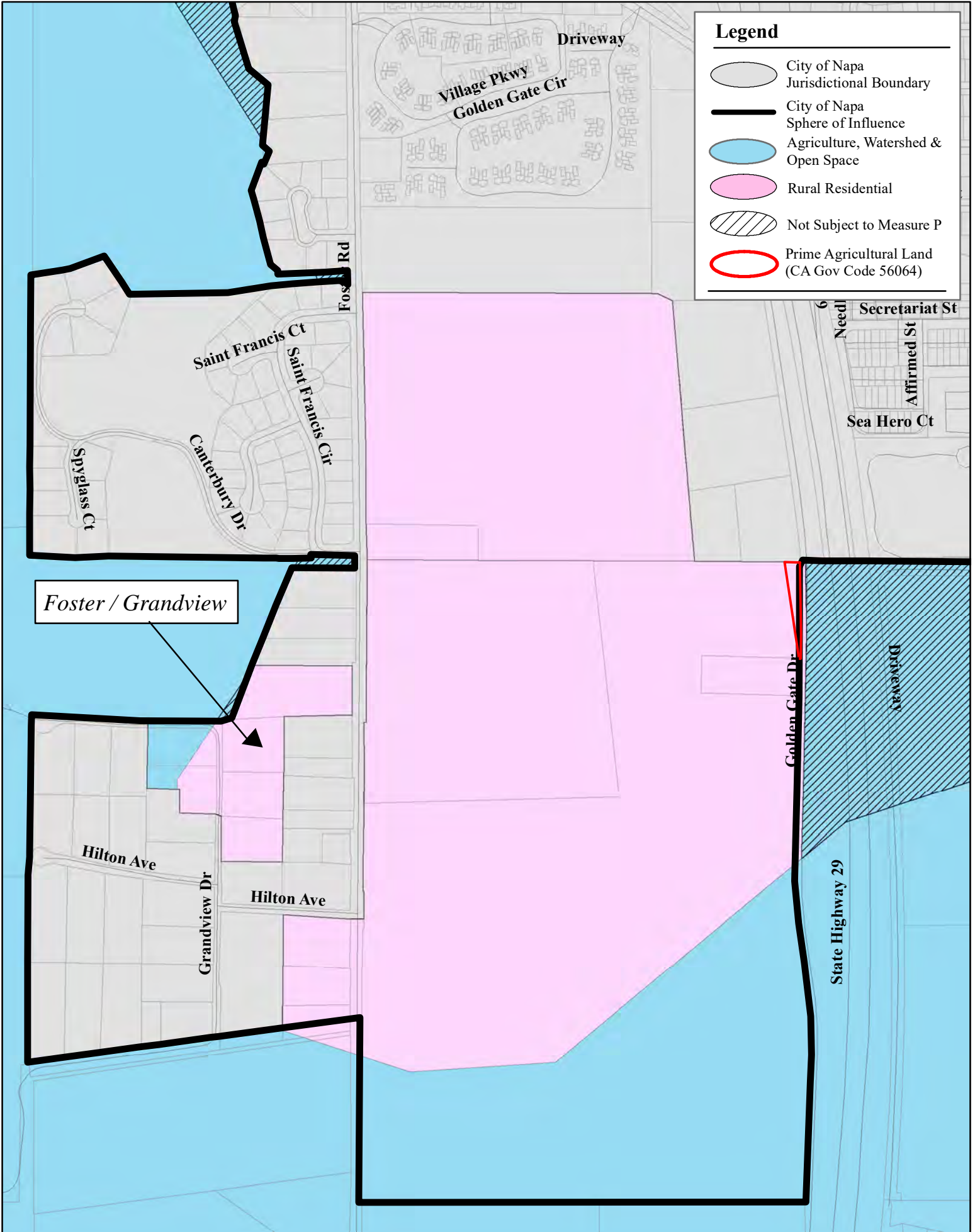
-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Agriculture, Watershed & Open Space
-  Rural Residential
-  Not Subject to Measure P



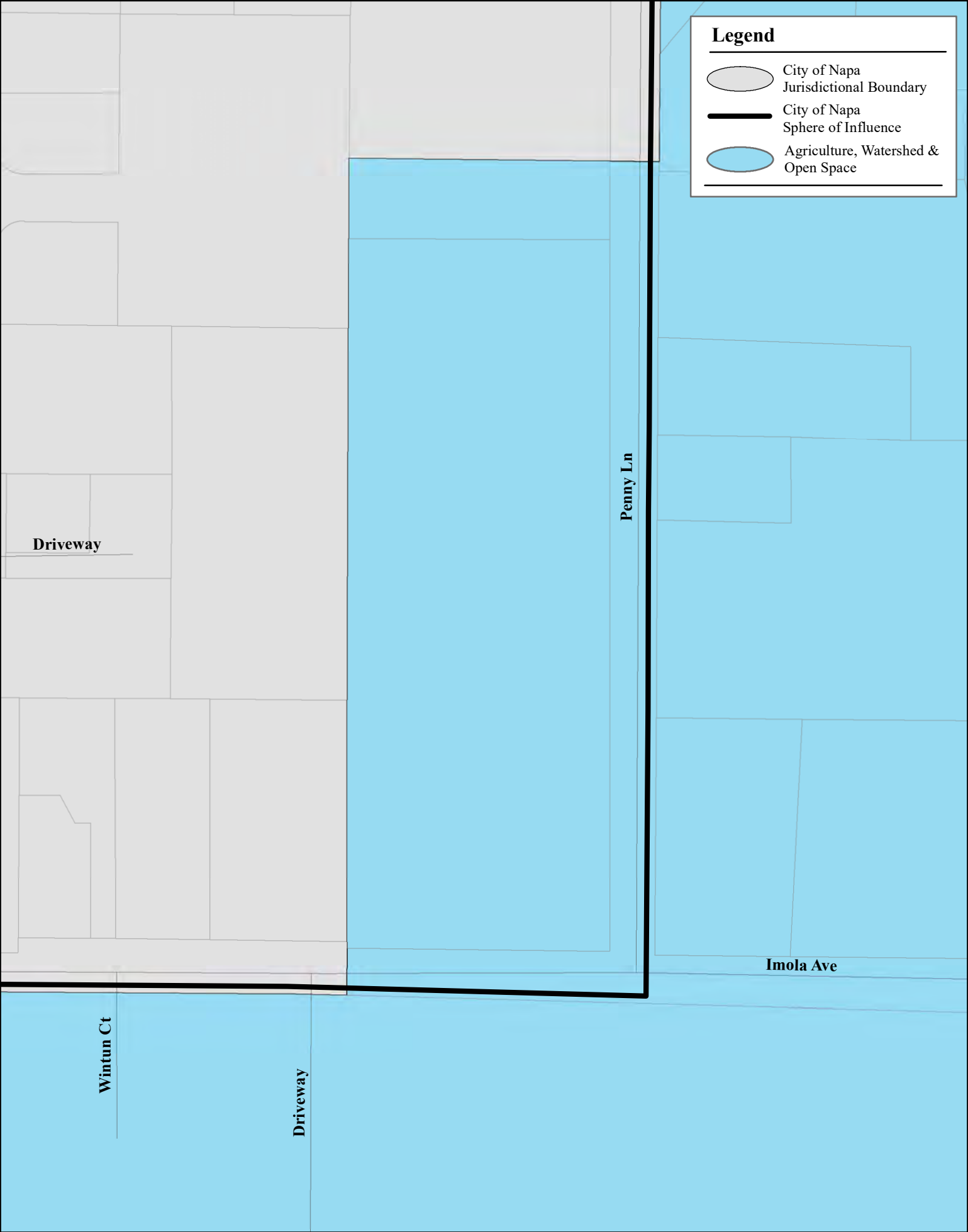
Big Ranch / Rosewood (55% Surrounded)






Foster / Golden Gate (52% Surrounded)



Penny / Imola (50% Surrounded)



Legend

-  City of Napa Jurisdictional Boundary
-  City of Napa Sphere of Influence
-  Agriculture, Watershed & Open Space

Penny Ln

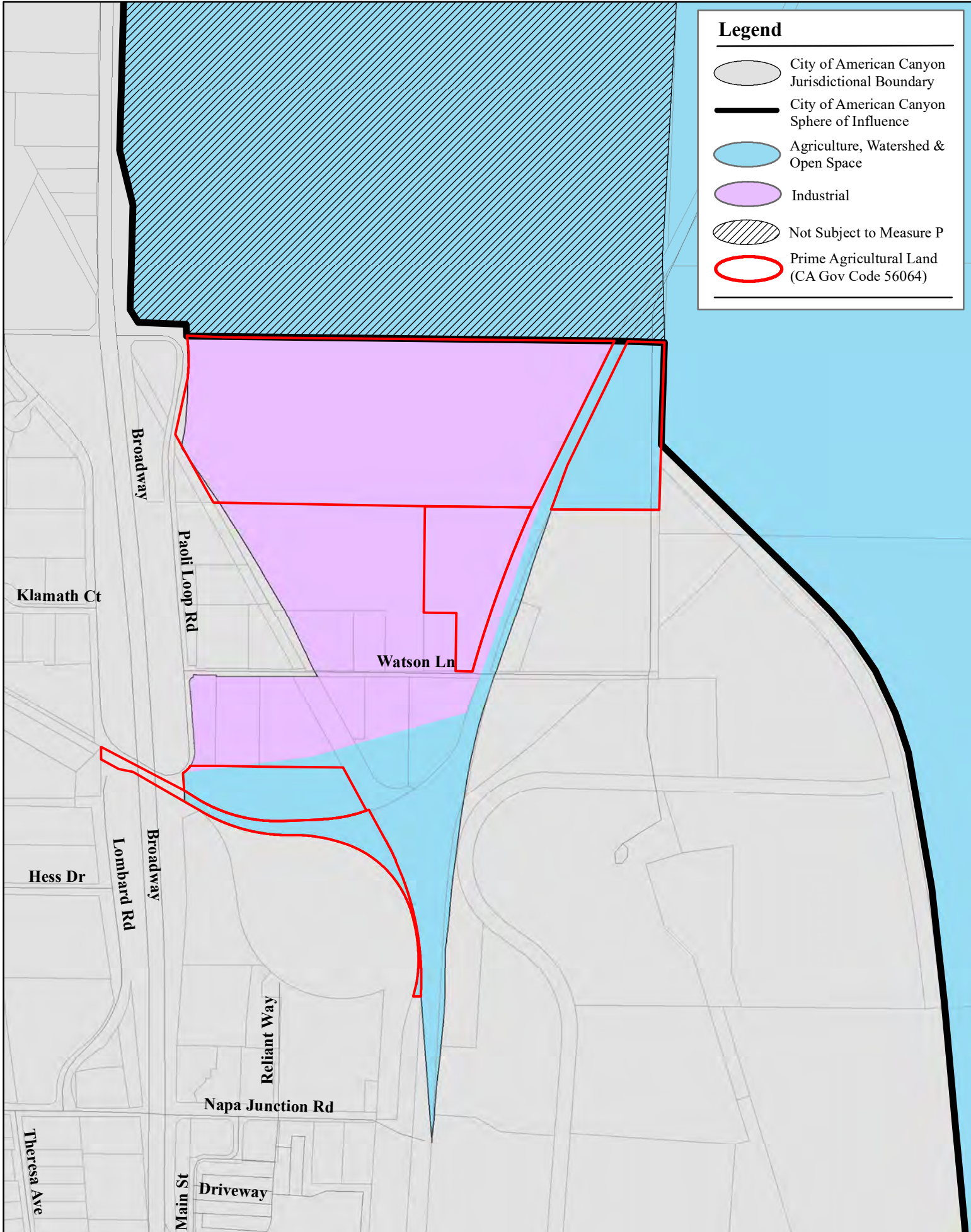
Imola Ave

Wintun Ct

Driveway

Driveway

Watson / Paoli Loop (77% Surrounded)





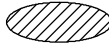


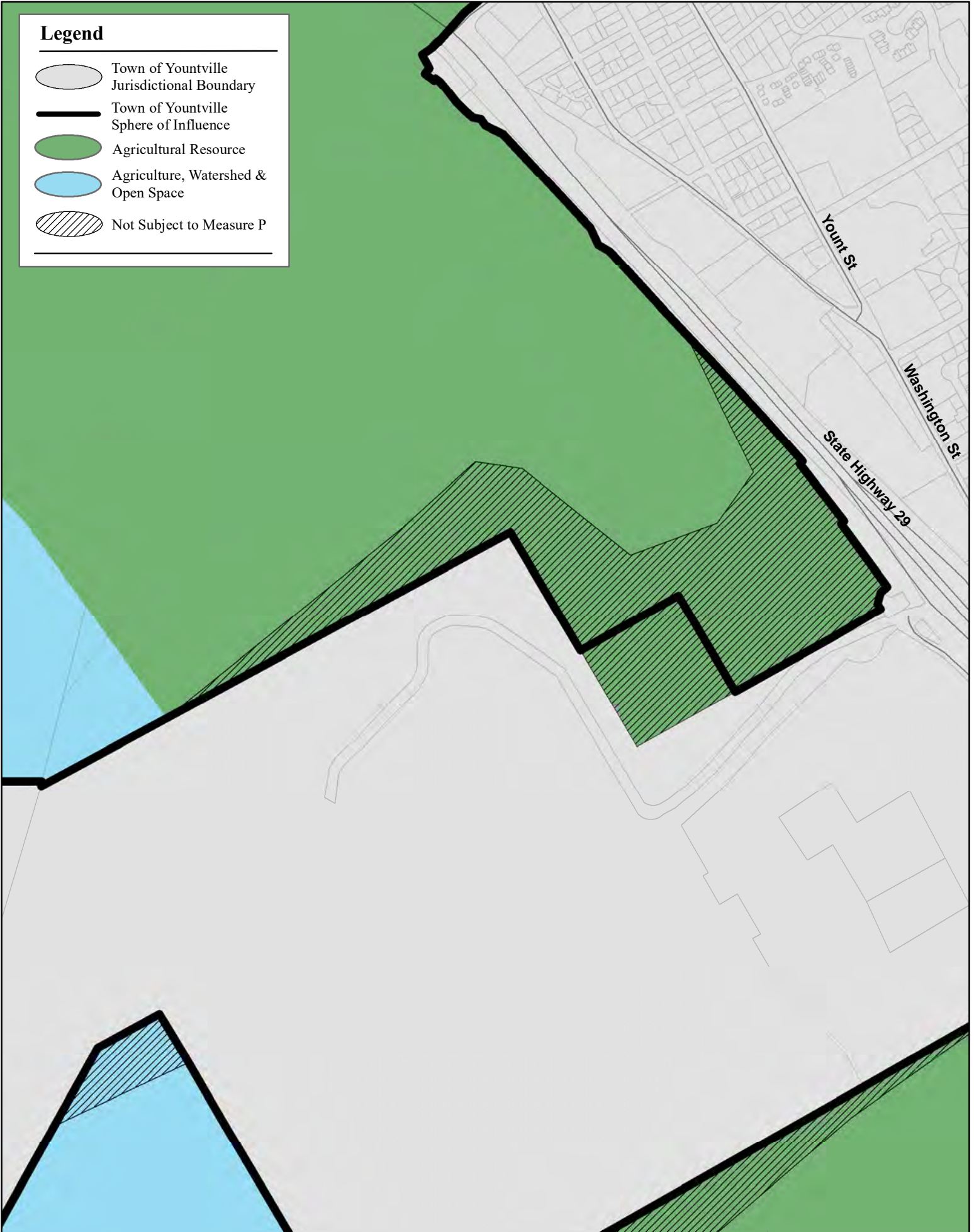
Calistoga Wastewater Pond (50% Surrounded)

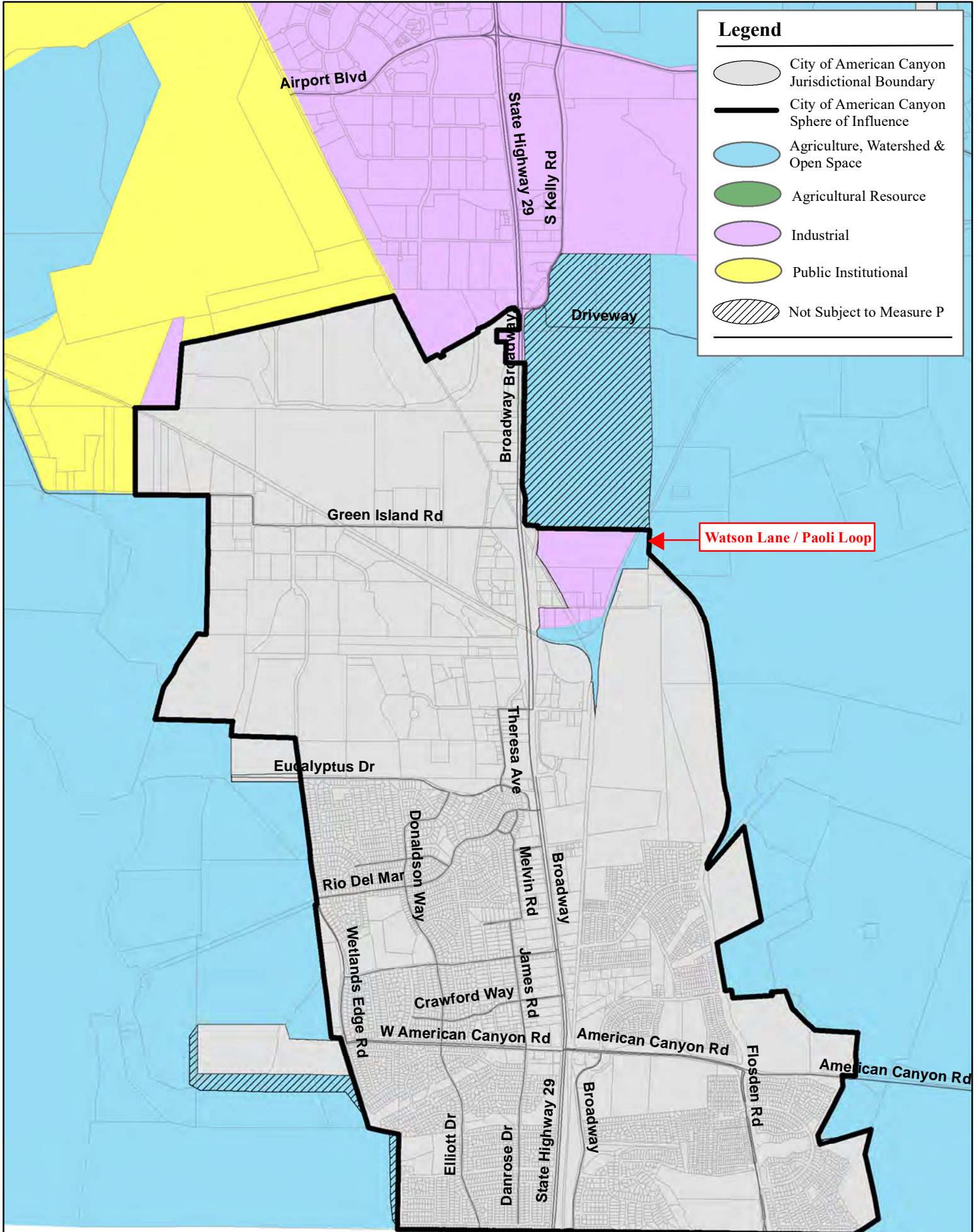


Domaine Chandon Commercial Site (50% Surrounded)

Legend

-  Town of Yountville Jurisdictional Boundary
-  Town of Yountville Sphere of Influence
-  Agricultural Resource
-  Agriculture, Watershed & Open Space
-  Not Subject to Measure P

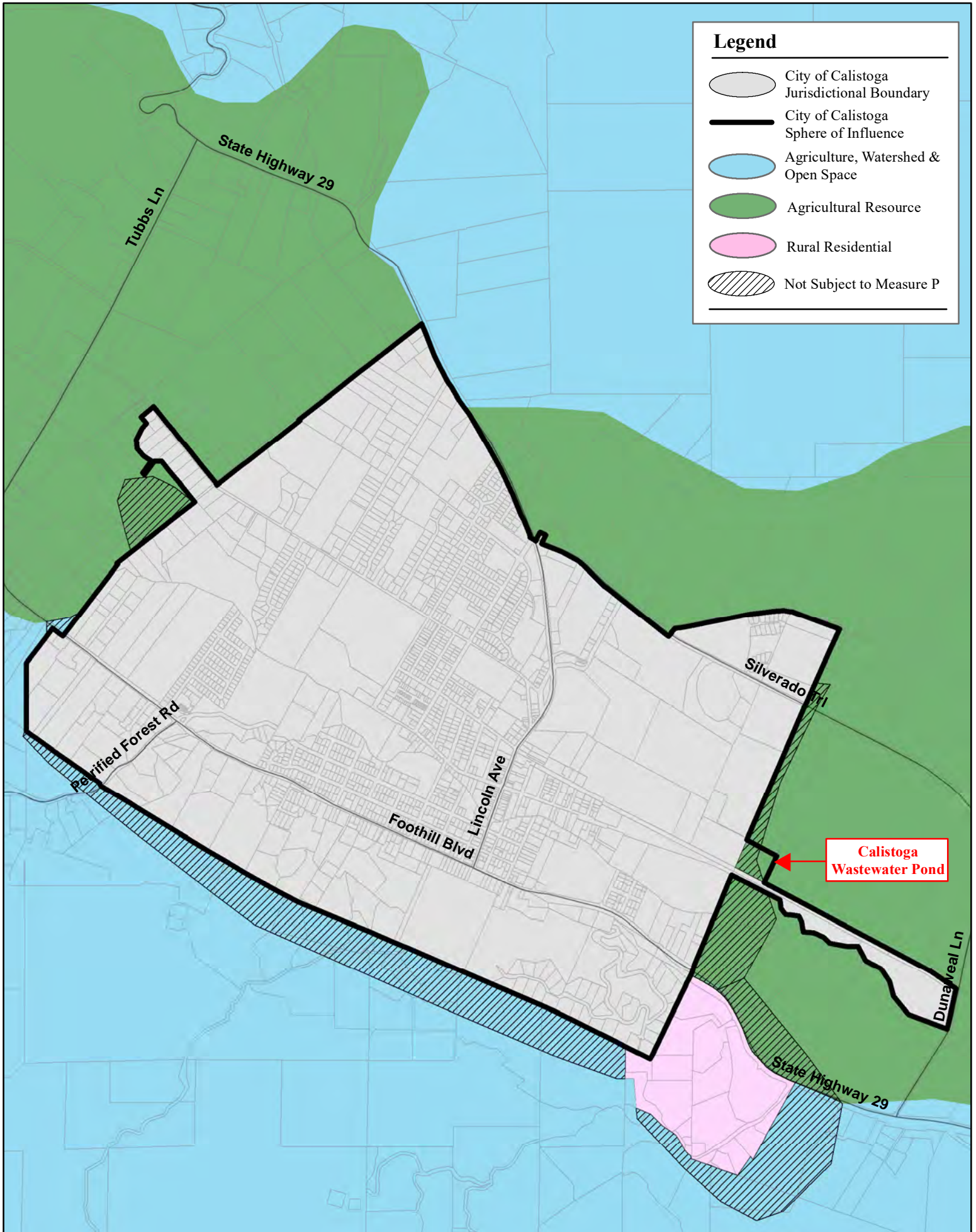




Legend

- City of American Canyon Jurisdictional Boundary
- City of American Canyon Sphere of Influence
- Agriculture, Watershed & Open Space
- Agricultural Resource
- Industrial
- Public Institutional
- Not Subject to Measure P

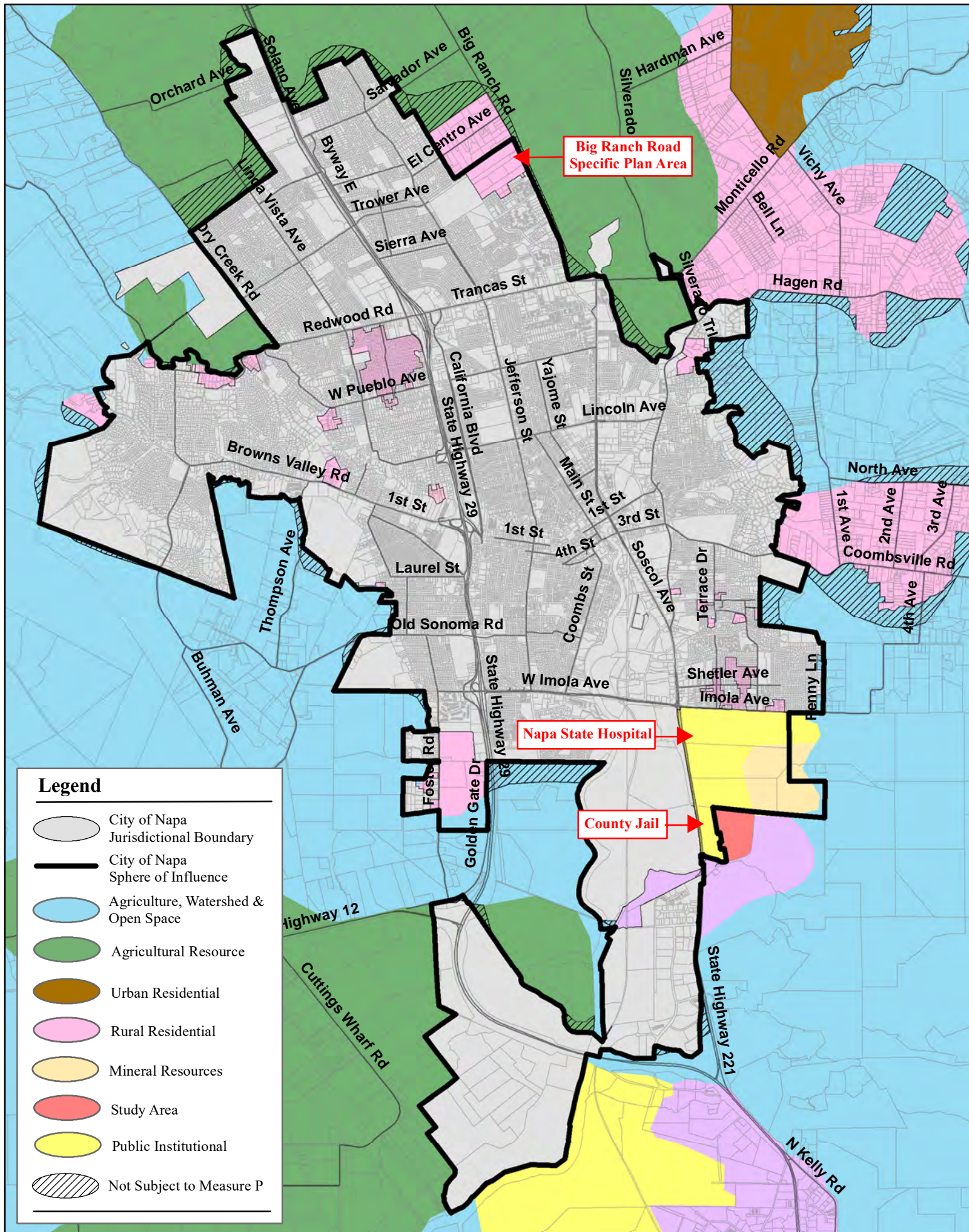
Watson Lane / Paoli Loop

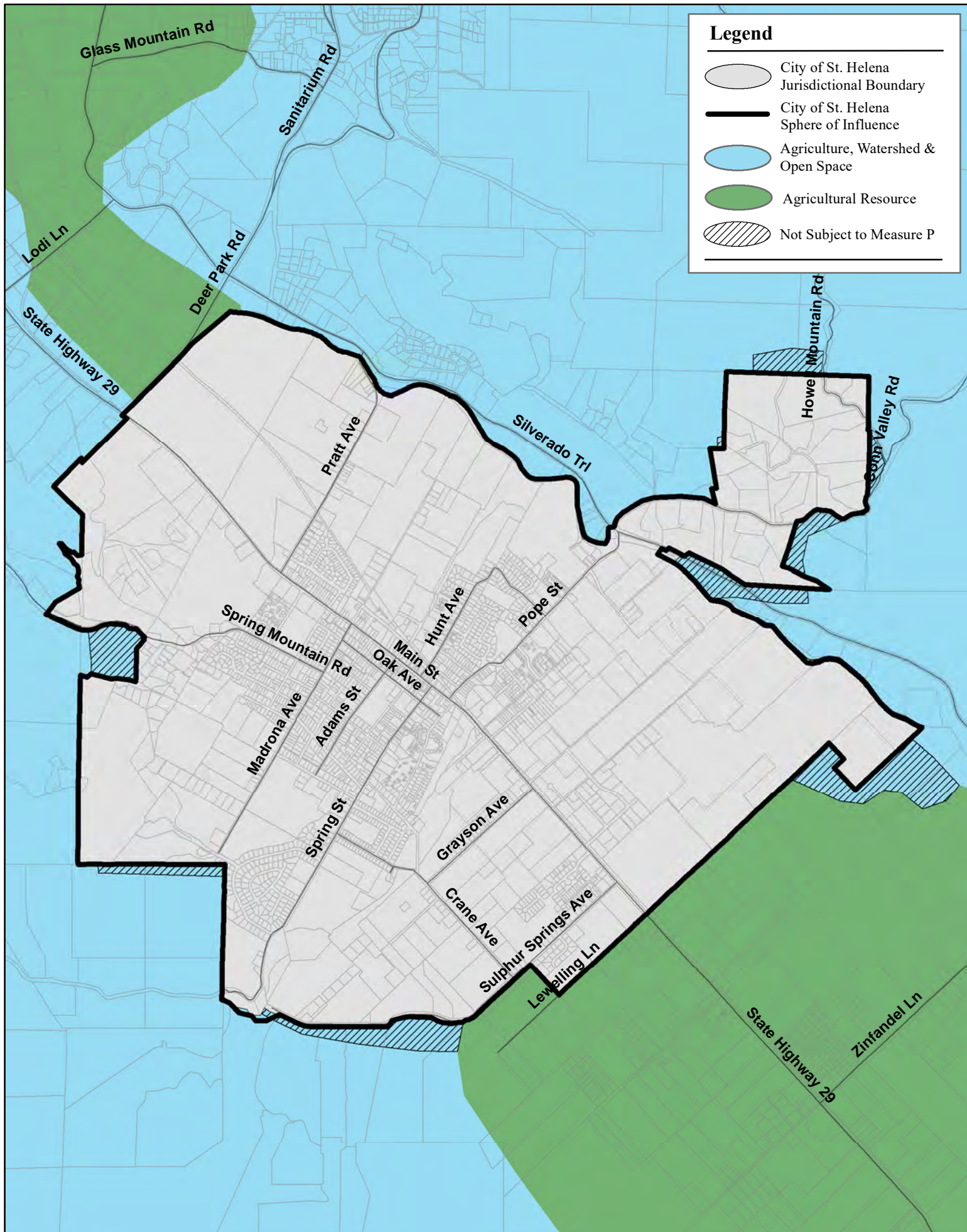


Legend






- City of Calistoga Jurisdictional Boundary
- City of Calistoga Sphere of Influence
- Agriculture, Watershed & Open Space
- Agricultural Resource
- Rural Residential
- Not Subject to Measure P

Calistoga Wastewater Pond





Legend

-  Town of Yountville Jurisdictional Boundary
-  Town of Yountville Sphere of Influence
-  Agriculture, Watershed & Open Space
-  Agricultural Resource
-  Not Subject to Measure P

