



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 9e (Action)

TO: Local Agency Formation Commission
PREPARED BY: Brendon Freeman, Executive Officer
MEETING DATE: February 1, 2021
SUBJECT: Ratification of an Outside Sewer Service Agreement Involving the Napa Sanitation District and 1118 Wine Country Avenue and Associated CEQA Findings

RECOMMENDATION

It is recommended the Commission adopt the Resolution of the Local Agency Formation Commission of Napa County Making Determinations – Ratification of an Outside Sewer Service Agreement Approval Involving the Napa Sanitation District and 1118 Wine Country Avenue making California Environmental Quality Act (CEQA) findings (Attachment One).

BACKGROUND AND SUMMARY

Area: 1.23 acres
APN: 035-511-014 (one parcel)
Location: 1118 Wine Country Avenue (hereinafter “affected territory”)
Jurisdiction: City of Napa (incorporated)
Sphere of Influence (SOI) Consistency: Yes – Napa Sanitation District (NSD)
Proposed Actions: Ratification of approved outside service agreement
Policy Consistency: Yes
CEQA: Exempt

The affected territory includes one approximately 2,800 square foot single-family residence with five bedrooms and three bathrooms that relies on a private, onsite sewage disposal system. The County of Napa’s Environmental Health Division confirmed the sewage disposal system serving the residence has failed and represents a threat to public health. County Environmental Health recommended the residence be connected to NSD’s public sewer system as soon as possible.

Pursuant to California Government Code (G.C.) Section 56133(b), the Commission may authorize a city or special district to provide new or extended services outside its jurisdictional boundary, but within its SOI, in anticipation of a later change of organization (e.g., annexation). The Commission's adopted *Policy on Outside Service Agreements* ("the Policy") is included as Attachment Two and identifies the process for the Commission to respond to requests pursuant to G.C. Section 56133(b).

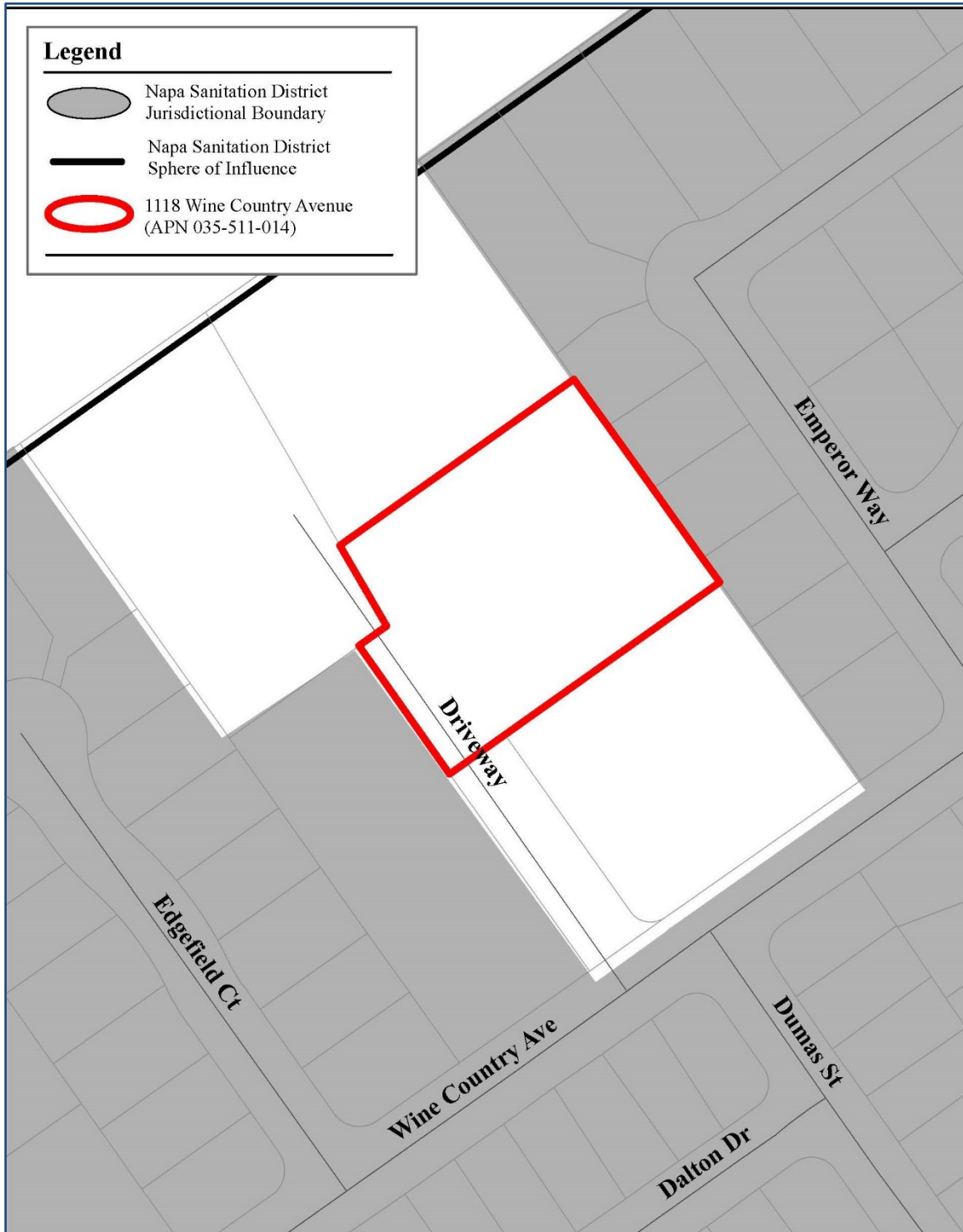
On January 26, 2021, the Executive Officer received a written request from NSD to provide public sewer service to the affected territory. The Executive Officer and Chair Mohler reviewed NSD's request and agreed to provide conditional approval for a time period of one year. The condition of approval requires the landowner to submit written consent agreeing to submit a complete application proposing annexation of the affected territory to NSD. The conditional approval letter is included as Attachment Three.

Notably, the landowner of the affected territory has agreed to consult with the landowners of nearby properties that are also located outside NSD's jurisdictional boundary – but within NSD's SOI – to explore the possibility of combining annexation efforts.

As part of this item, the Commission will adopt a resolution ratifying the Executive Officer's approval consistent with the Policy. Notably, the Policy states the following:

“In the case of a request involving an existing or impending public health or safety emergency, the Executive Officer will consult with the Chair regarding the request. If the Chair agrees that the request should be granted, then the Executive Officer may approve the request. **The Commission shall ratify the approval at the next scheduled meeting.** If the Chair does not agree, then the request will be presented at the Commission's next meeting.” (Emphasis added by staff.)

An aerial map of the affected territory is included as Attachment Four. A vicinity map of the affected territory showing NSD's jurisdictional boundary and SOI is provided on the following page.



ENVIRONMENTAL REVIEW

The outside sewer service agreement qualifies for an exemption from further review under Public Resources Code Section 21080(b)(4). The statute provides exemptions for “specific actions necessary to prevent or mitigate an emergency.” Further, the outside sewer service agreement qualifies for an exemption from further review under CEQA Guidelines Section 15282(k), which exempts the installation of new pipeline as long as the project does not exceed one mile in length. Staff believes these exemptions are appropriate given the underlying activity mitigates a public health threat and the installation of new pipeline will not exceed one mile in length.

ATTACHMENTS

- 1) Draft Resolution Ratifying Approval of Outside Service Agreement and Making CEQA Findings
- 2) Policy on Outside Service Agreements
- 3) Executive Officer’s Approval of Outside Service Agreement
- 4) Aerial Map of 1118 Wine Country Avenue

RESOLUTION NO. ____

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

**RATIFICATION OF AN OUTSIDE SEWER SERVICE AGREEMENT APPROVAL INVOLVING
THE NAPA SANITATION DISTRICT AND 1118 WINE COUNTRY AVENUE**

WHEREAS, the Local Agency Formation Commission of Napa County, hereinafter referred to as the “Commission,” administers California Government Code Section 56000 et. seq., known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the Commission is responsible for authorizing cities and special districts to enter into outside service agreements in accordance with California Government Code Section 56133; and

WHEREAS, the Commission received an application from the Napa Sanitation District, hereinafter referred to as the “proposal”, requesting the approval of an outside sewer service agreement involving incorporated territory located at 1118 Wine Country Avenue in the City of Napa, identified by the County of Napa Assessor’s Office as 035-511-014; and

WHEREAS, Commission policy allows the Executive Officer to approve an outside service agreement to address an emergency public health threat subject to later ratification by the Commission; and

WHEREAS, the proposal was conditionally approved by the Executive Officer on January 26, 2021 for a time period of one year given documentation showing the septic system serving the affected territory has failed, creating a public health threat; and

WHEREAS, the Executive Officer’s condition of approval for the proposal required the subject landowner to submit written consent agreeing to submit a complete application proposing annexation of the affected territory to the Napa Sanitation District; and

WHEREAS, the Executive Officer prepared and presented a written report to the Commission in the manner provided by law and adopted policy for purposes of considering ratification of the Executive Officer’s approval; and

WHEREAS, the Commission heard and fully considered all the evidence presented on the Executive Officer’s approval of the proposal at a public meeting held on February 1, 2021.

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

1. In accordance with the applicable provisions of the California Environmental Quality Act (CEQA), the Commission finds the proposal is statutorily exempt from further review under Public Resources Code Section 21080(b)(4), which exempts “specific actions necessary to prevent or mitigate an emergency.” The records upon which these findings are made are located at the Commission’s administrative office located at 1030 Seminary Street, Suite B, Napa, California 94559.
2. The Commission ratifies the Executive Officer’s outside service agreement approval, which expires on January 26, 2022.
3. The Commission hereby directs staff to file a Notice of Exemption in compliance with CEQA.

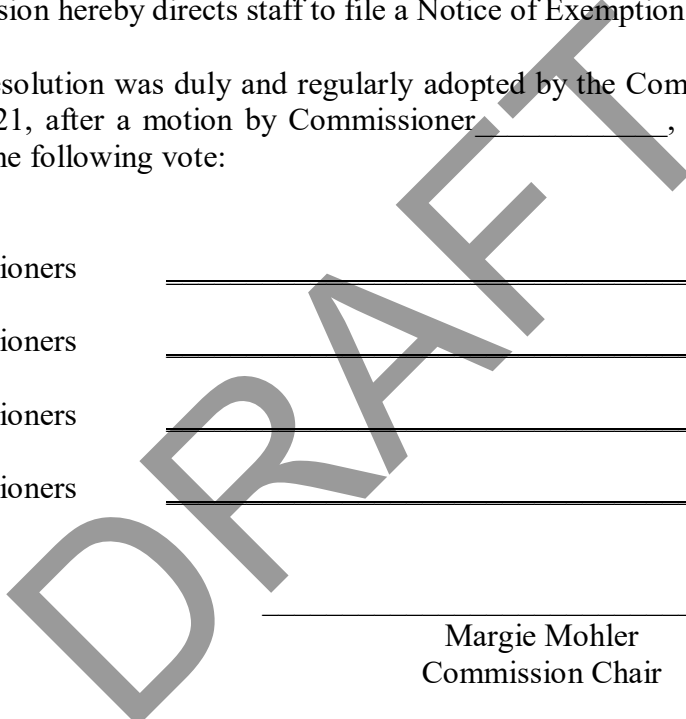
The foregoing resolution was duly and regularly adopted by the Commission at a public meeting held on February 1, 2021, after a motion by Commissioner _____, seconded by Commissioner _____, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSENT: Commissioners _____

ABSTAIN: Commissioners _____



Margie Mohler
Commission Chair

ATTEST: _____
Brendon Freeman
Executive Officer

Recorded by: Kathy Mabry
Commission Secretary



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

Policy on Outside Service Agreements

(Adopted: November 3, 2008; Last Amended: February 5, 2018)

I. BACKGROUND

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 includes provisions requiring cities, towns, and special districts to request and receive written approval from the Commission before providing new or extended services by agreements outside their jurisdictional boundaries with limited exemptions pursuant to Government Code (G.C.) Sections 56133, 56133.5, and 56134.

The Commission may authorize a city, town, or special district to provide new or extended service outside its jurisdictional boundary, but within its sphere of influence, in anticipation of a subsequent change of organization, such as an annexation. The Commission may also authorize a city, town, or special district to provide new or extended service outside its jurisdictional boundary *and* sphere of influence (a) to address an existing or impending threat to public health or safety or (b) if the Commission makes the determinations set forth in Section V(A)(4) of this policy at a noticed public hearing.

II. PURPOSE

The purpose of these policies is to guide the Commission in reviewing city, town, and special district requests to provide new or extended services by agreement outside their jurisdictional boundaries. This includes making policy statements and establishing consistent procedures with respect to the form, review, and consideration of requests.

III. OBJECTIVE

The objective of the Commission in implementing these policies is to ensure the extension of services by cities, towns, and special districts outside their jurisdictional boundaries is logical and consistent with supporting orderly growth and development in Napa County, and to prevent the circumvention of the LAFCO process by providing services by contract instead of through the annexation of territory. The Commission recognizes the importance of considering local conditions and circumstances in implementing these policies.

From LAFCO's perspective, an Outside Service Agreement can:

- 1) Protect the public from threats to health and safety.
- 2) Impose restrictions that limit development to existing intensities.
- 3) Permit a city or town to plan for future development in an orderly manner through the use of traditional zoning or specific plans.
- 4) Discourage premature development of fringe properties.

IV. DEFINITIONS

The Commission shall incorporate the following definitions in administering this policy:

- A. “Services” shall mean any municipal service provided by a city, town, or special district unless otherwise exempted under G.C. Section 56133.
- B. “New” shall mean the extension of a service to previously unserved non-jurisdictional land.
- C. “Extended” shall mean the intensification of existing services.
- D. “Outside Service Agreement” shall mean an agreement contemplated by G.C. Sections 56133, 56133.5, or 56134.

V. LOCAL CONSIDERATIONS

A. Consideration of New or Extended Services Outside a Jurisdictional Boundary and Outside the Sphere of Influence (G.C. Sections 56133(c) or 56133.5)

When considering any proposed Outside Service Agreement pursuant to G.C. Section 56133(c) or the Pilot Program under G.C. Section 56133.5, the Commission will consider the following, which will be addressed in the Executive Officer’s written report:

- 1) The ability of the applicant to extend the subject service to the affected territory.
- 2) The application’s consistency with the policies and general plans of all affected local agencies.
- 3) The application’s effect on growth and development within and adjacent to the affected territory.
- 4) The documentation presented pursuant to G.C. Section 56133(c)(1), which must provide substantial evidence to support a finding by the Commission of an impending threat to the health or safety of the public or the residents of the affected territory.
- 5) The application’s potential impacts on prime agricultural or open space lands.
- 6) The application’s consistency with the Commission’s adopted municipal service review determinations and recommendations.
- 7) The application’s potential impacts with respect to supporting affordable or farmworker housing.

B. Consideration of New or Extended Services Outside the Jurisdictional Boundary but within the Sphere of Influence in Anticipation of a Later Change of Organization (G.C. Section 56133(b))

Annexations to cities, towns, and special districts involving territory located within the affected agency's sphere of influence are preferred to Outside Service Agreements. The Commission recognizes, however, that there may be instances when Outside Service Agreements involving territory within the affected agency's sphere of influence are appropriate given unique local circumstances.

When submitting an application under G.C. Section 56133(b), the city, town, or district must state with specificity the nature and timing of the anticipated later change of organization for the area affected by the potential Outside Service Agreement.

C. Environmental Review

The review of a proposed Outside Service Agreement will be subject to the review procedures defined in the California Environmental Quality Act (CEQA) and the Napa LAFCO CEQA Guidelines. Napa LAFCO will act as the Lead Agency under CEQA for its environmental review of any Outside Service Agreement request.

If an environmental assessment/analysis was prepared for the project associated with the service extension request (i.e. the County or agency's environmental analysis for a project) and LAFCO was afforded the opportunity to evaluate and comment during the Lead Agency's environmental review process, then LAFCO can act as a Responsible Agency under CEQA for its environmental review of an Outside Service Agreement.

A complete set of the adopted environmental documents prepared for the project, a copy of the filed Notice of Determination/Notice of Exemption, and a copy of the Department of Fish and Wildlife fee receipt must be submitted as part of the application. Completion of the CEQA review process will be required prior to action by the Executive Officer or the Commission.

VI. FORM OF REQUEST

The Commission encourages cities, towns, and special districts to coordinate with the Executive Officer prior to filing a request under G.C. Sections 56133 or 56134 in order to determine if the Pilot Program under G.C. Section 56133.5 or the exemptions under G.C. Section 56133(e) may apply.

Requests to authorize an Outside Service Agreement shall be filed with the Executive Officer by the affected city, town, or special district. Requests shall be made by resolution of application with a cover letter accompanying a completed application using the form provided in Attachment A. Requests shall identify any assurances that the Outside Service Agreement would not induce growth or result in the premature conversion of agricultural or open space lands to an urban use.

Requests shall include a check in the amount prescribed under the Commission's adopted fee schedule along with a copy of the proposed Outside Service Agreement. The application shall be signed by an authorized representative of the city, town, or special district.

VII. REVIEW OF REQUEST

The Executive Officer shall review and determine within 30 days of receipt whether the request to authorize an Outside Service Agreement is complete. If a request is deemed incomplete, the Executive Officer shall immediately notify the applicant and identify the information needed to accept the request for filing.

VIII. CONSIDERATION OF REQUEST

Once a request is deemed complete, the Executive Officer will prepare a written report with a recommendation.

In the case of a request involving an existing or impending public health or safety emergency, the Executive Officer will consult with the Chair regarding the request. If the Chair agrees that the request should be granted, then the Executive Officer may approve the request. The Commission shall ratify the approval at the next scheduled meeting. If the Chair does not agree, then the request will be presented at the Commission's next meeting.

For requests not involving an existing or impending public health or safety threat, the Executive Officer will present his or her report and recommendation at a public hearing for Commission consideration. The public hearing will be scheduled for the next meeting of the Commission for which adequate notice can be given but no later than 90 days from the date the request is deemed complete.

The Commission may approve, approve with conditions, or deny the request for an Outside Service Agreement. The Commission's determination and any required findings will be set out in a resolution that specifies the property or area to be served, the services to be provided, and the authority of the agency to provide its services outside its boundaries.

If the request is approved, the Commission's approval shall expire within one year from approval unless a contract has been executed and the construction of any needed infrastructure improvements has commenced. A one-time extension may be requested by the applicant for a period of time that is necessary to complete the Commission's conditions. Time extension requests shall include a check in the amount prescribed under the Commission's adopted fee schedule.



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

APPLICATION OUTSIDE SERVICE AGREEMENT

A. Applicant Information

- 1) Agency Name: _____
- 2) Contact Person and Title: _____
- 3) Contact Information: _____

Telephone	E-Mail
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- 4) Mailing Address: _____

Address	City, State, Zip Code
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B. Type of Outside Service Agreement

- 1) New Extended
- 2) Water Sewer Other: _____

C. Location of Territory to be Served (attach additional sheets if necessary)

- 1) Assessor Parcel Number: _____
Size: _____ Current Use: _____
- 2) Assessor Parcel Number: _____
Size: _____ Current Use: _____
- 3) Assessor Parcel Number: _____
Size: _____ Current Use: _____

D. Service Information

- 1) Describe how the agency would provide the proposed new or extended service to the subject territory. Please identify any necessary infrastructure or facility improvements and associated funding requirements necessary to provide service to the subject territory.

- 2) If the proposed new or extended service involves water or sewer, identify the anticipated demand in terms of use (i.e., gallons) associated with serving the subject territory.

- 3) Does the agency have sufficient capacities to provide the proposed new or extended service to the subject territory without adversely effecting existing service levels?

- 4) What services, if any, are currently provided to the subject territory?

E. Additional Information

- 1) Identify the subject territory’s land use designation and zoning standard along with the minimum parcel density requirements.

- 2) Are there any proposed or approved, but not yet built, development projects involving the subject territory?

Yes No

If yes, describe the proposed projects or the approved permits/land use entitlements.

- 3) The Commission’s action regarding this request by the agency to provide new or extended services outside its jurisdictional boundary is subject to the requirements of the California Environmental Quality Act (CEQA). Has the agency conducted any CEQA reviews for any projects associated with this application?

Yes No

If yes, please provide copies of the environmental documentation, including the Notice of Exemption or Notice of Determination as well as proof of payment of applicable California Department of Fish & Game fees.

- 4) Is the subject territory located within the agency’s sphere of influence?

Yes No

If no, please identify whether there is an existing or impending threat to public health and safety or to the residents in support of the application.



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

January 26, 2021

Mr. Tim Healy, General Manager
 Napa Sanitation District
 1515 Soscol Ferry Road
 Napa, California 94558

SUBJECT: Emergency Approval of New Outside Sewer Service Involving the Napa Sanitation District and 1118 Wine Country Avenue (APN 035-511-014)

Mr. Healy:

The Local Agency Formation Commission (LAFCO) of Napa County received the Napa Sanitation District's (NSD) request to approve an emergency outside sewer service agreement between NSD and the landowner of 1118 Wine Country Avenue (APN 035-511-014); an approximate 1.23-acre incorporated property located in the City of Napa and within NSD's sphere of influence.

As noted in the attached application materials, the subject territory includes a single-family residence currently dependent on a private, onsite septic system for wastewater treatment and disposal. The County of Napa's Environmental Health Division determined the septic system is not functioning and poses a threat to public health (confirmation attached). County Environmental Health recommends connection to NSD as soon as possible.

The LAFCO Executive Officer has reviewed the request from NSD and, as authorized under LAFCO policies, I hereby conditionally authorize NSD to enter into an outside service agreement with the landowner of 1118 Wine Country Avenue for purposes of abating the referenced threat to public health. This approval is effective immediately and expires on January 26, 2022. LAFCO's authorization is conditioned upon the receipt of written consent from the landowner agreeing to submit a complete application to annex 1118 Wine Country Avenue to NSD to allow for permanent public sewer service provision.

If you have any questions, please do not hesitate to contact me at (707) 259-8645 or by email at bfreeman@napa.lafco.ca.gov.

Sincerely,

Brendon Freeman
 Executive Officer

cc: LAFCO Commissioners
 Simon Kobayashi, Napa Sanitation District
 Jeff Richied, Landowner

Attachments: as stated

Margie Mohler, Chair
 Councilmember, Town of Yountville

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

Vacant
 Representative of the General Public

Mariam Aboudamous, Commissioner
 Councilmember, City of American Canyon

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

Eve Kahn, Alternate Commissioner
 Representative of the General Public

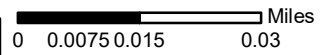
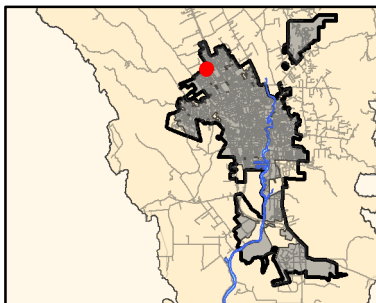
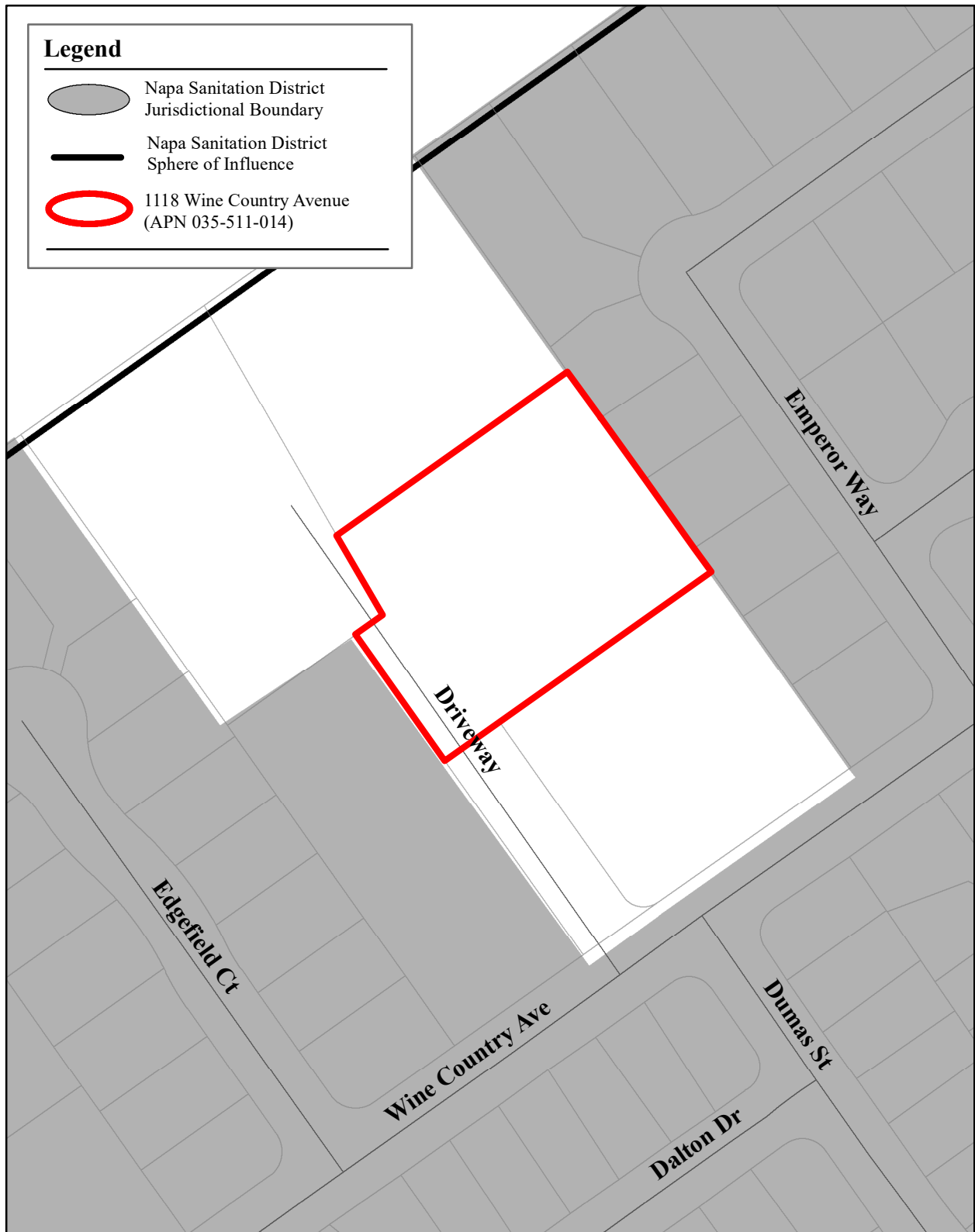
Beth Painter, Alternate Commissioner
 Councilmember, City of Napa

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

Brendon Freeman
 Executive Officer

1118 Wine Country Avenue

Attachment Three



OS.A Approved January 26, 2021
Prepared by LAFCO Staff



LAFCO of Napa County
1030 Seminary Street, Suite B
Napa, California 94559
www.napa.lafco.ca.gov



January 25, 2021

Mr. Brendon Freeman
Executive Officer
Local Agency Formation Commission of Napa County
1700 Second Street, Suite 268
Napa, CA 94559

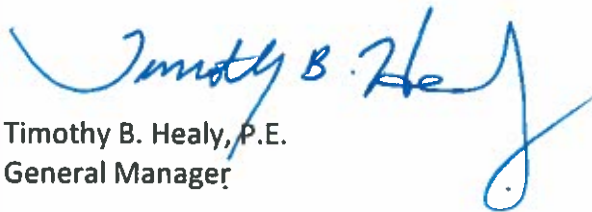
SUBJECT: Outside Service Agreement Application
1118 Wine Country Ave (APN 035-511-014)

Dear Mr. Freeman:

The Napa Sanitation District (NapaSan) requests conditional approval from the Local Agency Formation Commission (LAFCO) of Napa County to enter into an outside service agreement with the landowner at 1118 Wine Country Ave (APN 035-511-014) in the City of Napa pursuant to Government Code Section 56133. The affected territory currently consists of a single-family residence. The purpose of the outside service agreement is to expedite the connection to NapaSan's public sewer line given the single-family residence's septic system has failed as documented by the County of Napa Environmental Management Department. NapaSan requests LAFCO condition approval of the outside service agreement on the subject landowner first submitting an application to annex the affected territory into NapaSan.

If you have further questions, please contact me.

Sincerely,



Timothy B. Healy, P.E.
General Manager

Attachments: Outside Service Agreement Application

NapaSan
1515 Soscol Ferry Road
Napa, CA 94558

Office (707) 258-6000
Fax (707) 258-6048

www.napaslan.com

D. Service Information

- 1) Describe how the agency would provide the proposed new or extended service to the subject territory. Please identify any necessary infrastructure or facility improvements and associated funding requirements necessary to provide service to the subject territory.

There is an existing 8-inch sanitary sewer main along Wine Country Ave. The
owner will be required to install a new public (street) lateral and cleanout as well
as private sewer improvements in accordance with NapaSan Standards to
connect the parcel to the main.

- 2) If the proposed new or extended service involves water or sewer, identify the anticipated demand in terms of use (i.e., gallons) associated with serving the subject territory.

The existing single family dwelling would generate approximately 210 gallons
per day of domestic wastewater.

- 3) Does the agency have sufficient capacities to provide the proposed new or extended service to the subject territory without adversely effecting existing service levels?

Yes.

- 4) What services, if any, are currently provided to the subject territory?

None by NapaSan.

E. Additional Information

- 1) Identify the subject territory’s land use designation and zoning standard along with the minimum parcel density requirements.

General Plan: SFI-3

Zoning: RI 5

- 2) Are there any proposed or approved, but not yet built, development projects involving the subject territory?

Yes No

If yes, describe the proposed projects or the approved permits/land use entitlements.

None known at this time.

- 3) The Commission’s action regarding this request by the agency to provide new or extended services outside its jurisdictional boundary is subject to the requirements of the California Environmental Quality Act (CEQA). Has the agency conducted any CEQA reviews for any projects associated with this application?

Yes No

If yes, please provide copies of the environmental documentation, including the Notice of Exemption or Notice of Determination as well as proof of payment of applicable California Department of Fish & Game fees.

- 4) Is the subject territory located within the agency’s sphere of influence?

Yes No

If no, please identify whether there is an existing or impending threat to public health and safety or to the residents in support of the application.



A Tradition of Stewardship
A Commitment to Service

Attachment Three

Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

David Morrison
Director

January 25, 2021

Simon Kobayashi
Napa Sanitation District
1515 Soscol Ferry Road
Napa, CA 94558

Subject: Failing Septic System at 1118 Wine Country Ave, APN035-511-014.

Dear Simon,

Staff from this office has conducted a site visit, interviewed property owners and has confirmed the septic system serving this parcel is not functioning. It is our understanding that the property owner is initiating the process to connect to the Napa Sanitation District. As the failure of an onsite sewage disposal system creates a threat to public health, we would recommend that this parcel be connected to the Napa Sanitation District as soon as possible.

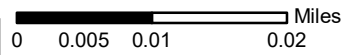
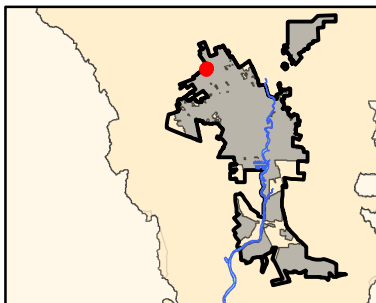
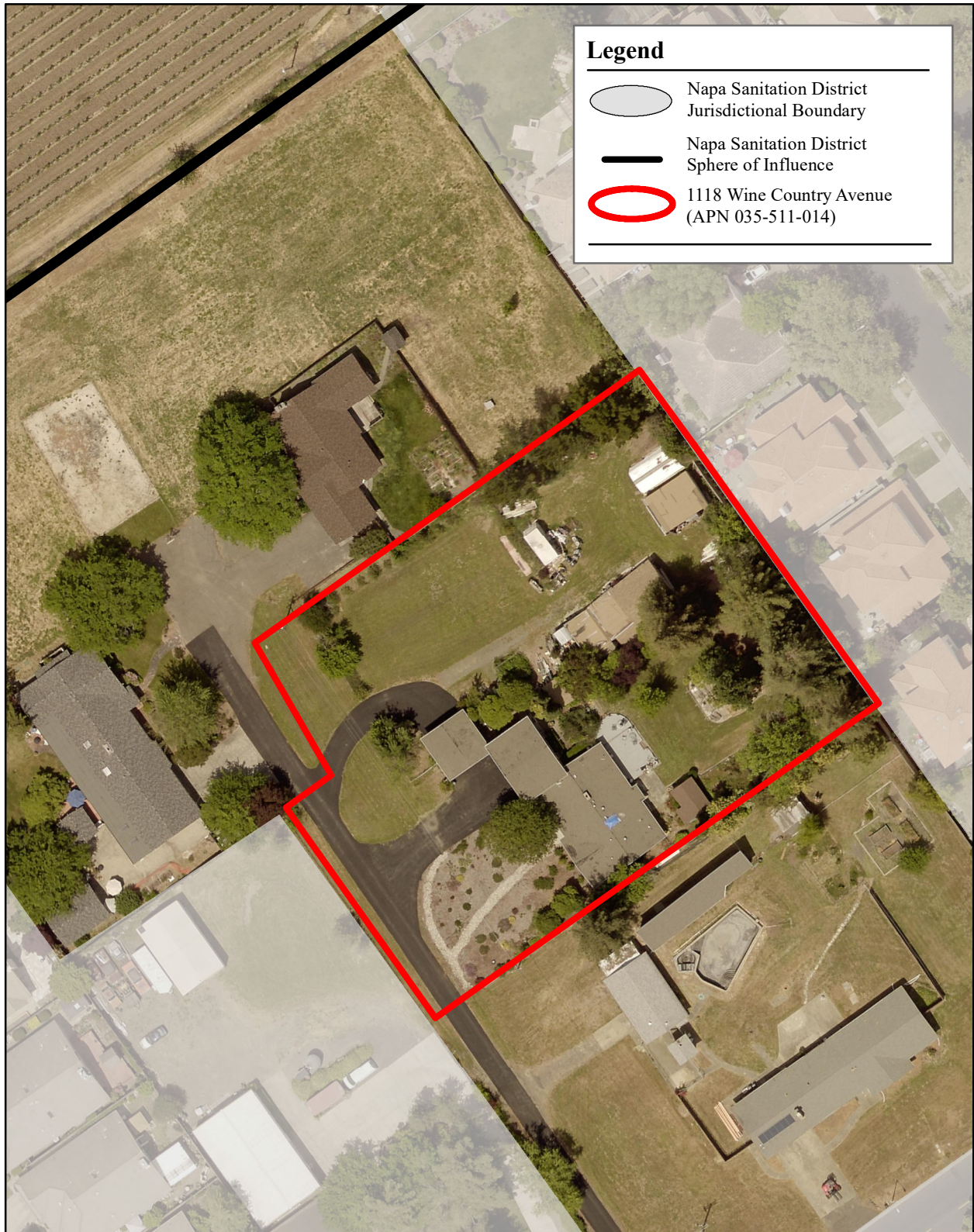
If you have any questions, I can be reached at (707) 253-4339 or by email at avi.soma@countyofnapa.org

Regards,

A handwritten signature in black ink, appearing to read "Avi Soma".

Avi Soma
Environmental Health Specialist

Attachment Four 1118 Wine Country Avenue & Napa Sanitation District



February 1, 2021
Prepared by BF



LAFCO of Napa County
1030 Seminary Street, Suite B
Napa, California 94559
www.napa.lafco.ca.gov