



Local Agency Formation Commission
LAFCO of Napa County

1700 Second Street, Suite 268
Napa, California 94559
Telephone: (707) 259-8645
Facsimile: (707) 251-1053
<http://napa.lafco.ca.gov>

June 7, 2010

Agenda Item No. 5a (Consent: Action)

May 27, 2010

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer
Brendon Freeman, Analyst

SUBJECT: Abandonment of Borrette Lane No. 8 Annexation to the Napa Sanitation District Approval

The Commission will receive a report from staff confirming the conditions associated with the Borrette Lane No. 8 Annexation to the Napa Sanitation District proposal have not been satisfied and the proceedings have been abandoned. The report is being presented to receive and file.

Local Agency Formation Commissions (LAFCOs) are responsible under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to regulate the formation and development of local governmental agencies and their municipal services. This includes approving, modifying, or disapproving proposed changes of organization or reorganization. LAFCOs are also authorized to establish conditions in approving changes of organization or reorganization as long as they do not directly regulate land uses, property development, or subdivision requirements. All conditions must be satisfied within one calendar year unless a time extension is requested and approved by LAFCO.

A. Background

At its May 5, 2008 meeting, LAFCO of Napa County (“Commission”) approved an application from landowners Karen and Kirk Reid to annex 6.0 acres of incorporated territory in the City of Napa to the Napa Sanitation District (NSD). The affected territory consists of one lot developed with a single-family residence located at 1020 Borrette Lane. The annexation was intended to facilitate the division of approximately half the lot into four new residential lots. The affected territory is identified by the County of Napa Assessor’s Office as 041-700-004.

Juliana Inman, Chair
Councilmember, City of Napa

Lewis Chilton, Commissioner
Councilmember, Town of Yountville

Joan Bennett, Alternate Commissioner
Councilmember, City of American Canyon

Bill Dodd, Vice Chair
County of Napa Supervisor, 4th District

Brad Wagenknecht, Commissioner
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Representative of the General Public

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Keene Simonds
Executive Officer

June 7, 2010

The Commission conditioned its approval to require standard conditions. This includes receiving confirmation from NSD that their terms have been satisfied. State law requires all conditions be satisfied within one calendar year of approval unless a time extension is requested and approved by the Commission. On April 6, 2009, the Commission approved a one-year time extension request from the Reids extending the deadline to satisfy the conditions to May 5, 2010. In submitting their request, the Reids stated the downturn in the economy had delayed their efforts in completing the planned division of the affected territory. Notably, the Reids' ability to fund the sewer infrastructure necessary to serve the affected territory has been dependent on the sale of one of the four planned new lots.

B. Discussion/Analysis

Staff has sent written communications to the Reids identifying the outstanding conditions necessary to complete the annexation proceedings involving the affected territory. Staff's most recent written communication was sent on January 6, 2010 and advised the proceedings would be abandoned if the outstanding conditions were not satisfied by April 6, 2010. Staff received a letter from the landowners on April 6, 2010 confirming their intent to abandon annexation proceedings.

The applicant's failure to satisfy the outstanding conditions by the referenced deadline has caused the proposal to be abandoned in accordance with Government Code Section 57001. A new application is now required to consider a future request to annex the affected territory.

C. Recommendation

It is recommended the Commission receive and file the report.

Respectfully submitted,

Keene Simonds
Executive Officer

Brendon Freeman
Analyst

Attachments:

- 1) Resolution of Approval, Dated May 5, 2008
- 2) Government Code Section 57001
- 3) Letter to Applicant, Dated April 8, 2009
- 4) Letter to Applicant, Dated January 6, 2010
- 5) Letter from Applicant, Dated April 6, 2010

RESOLUTION NO. 08-02

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

**BORRETTE LANE NO. 8 DISTRICT ANNEXATION
NAPA SANITATION DISTRICT**

WHEREAS, an application by Kirk and Karen Reed, property owners, proposing the annexation of territory to the Napa Sanitation District has been filed with the Executive Officer hereinafter referred to as "Executive Officer" of the Napa County Local Agency Formation Commission, hereinafter referred to as "the Commission", pursuant to Title 5, Division 3, commencing with Section 56000 of the California Government Code; and

WHEREAS, the Executive Officer reviewed said proposal and prepared a report, including his recommendations thereon; and

WHEREAS, said proposal and the Executive Officer's report have been presented to the Commission in the manner provided by law; and

WHEREAS, the Commission heard and fully considered all the evidence presented at a public meeting held on said proposal on May 5, 2008; and

WHEREAS, the Commission considered all the factors required by law under Section 56668 et al of the California Government Code; and

WHEREAS, the Commission found the proposal consistent with the sphere of influence established for the affected agency and with the Commission's adopted policy determinations; and

WHEREAS, the Commission determined to its satisfaction that all owners of land included in said proposal consent to the subject annexation; and

WHEREAS, the Commission, in accordance with the adopted Local Agency Formation Commission Environmental Impact Report Guidelines, and applicable provisions of the California Environmental Quality Act (CEQA), considered the determination of the City of Napa, Lead Agency under CEQA, that the Initial Study and Negative Declaration prepared for the underlying project adequately discussed the extension of sewer service and the impacts of the project on the environment.

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

1. As responsible agency, the Commission confirms that it has reviewed and considered the information in the Initial Study and Negative Declaration prepared for the underlying development project by the lead agency, the City of Napa. The Commission hereby makes and incorporates by reference the environmental findings set forth in the City of Napa Planning Commission Resolution No. 06-0037-CQ as required by Section 15091 of Title 14 of the California Administrative Code. The Commission findings are based on its independent judgment and analysis. The records upon which these findings are made are located at the LAFCO office at 1700 Second Street, Suite 268, Napa, California.
2. The proposal is APPROVED subject to the terms and conditions identified in this resolution.
3. The proposal is assigned the following distinctive short-term designation:

**BORRETTE LANE NO. 8 DISTRICT ANNEXATION
NAPA SANITATION DISTRICT**
4. The affected territory is depicted on the attached map and geographic description provided in the attached Exhibit "A".
5. The affected territory so described is uninhabited as defined in California Government Code Section 56046.
6. The Napa Sanitation District utilizes the Regular County assessment roll.
7. The affected territory will be taxed for existing general bonded indebtedness of the Napa Sanitation District.
8. The proposal shall be subject to the terms and conditions required of the Napa Sanitation District as specified in the attached Exhibit "B".
9. The applicant shall provide written notification to the Napa County Department of Environmental Management upon connection to the sewer line of the Napa Sanitation District.
10. The Commission authorizes conducting authority proceedings to be waived in accordance with Government Code Section 56663(c).
11. Recordation is contingent upon receipt from the Napa Sanitation District of written notification that the terms and conditions specified in the attached Exhibit "B" have been fulfilled.
12. The effective date approving the proposal shall be the date of recordation.
13. Recordation shall occur within one year of Commission approval unless a time extension is requested and approved by the Commission or the proposal shall be abandoned.

14. The Commission waives the application fee for the proposal based on the finding that payment be detrimental to the public interest in accordance with Government Code Section 56383(d).

The foregoing resolution was duly and regularly adopted by the Local Agency Formation Commission of the County of Napa, State of California, at a regular meeting held on the 5th of May, 2008 by the following vote:

AYES: Commissioners DODD, GINGLES, INMAN, RODENO AND WAGENKNECHT

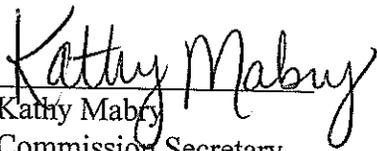
NOES: Commissioners NONE

ABSENT: Commissioners COFFEY, KELLY AND LUCE

ABSTAIN: Commissioners NONE

ATTEST: Keene Simonds
Executive Officer

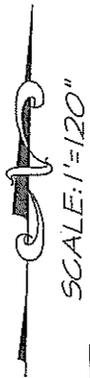
Recorded by:


Kathy Mabry
Commission Secretary

BORRETTE LANE DISTRICT NO. 8 ANNEXATION TO THE NAPA SANITATION DISTRICT NAPA CALIFORNIA

EXHIBIT A

BEING A PORTION OF THE NAPA RANCHO, TOWNSHIP 5 NORTH,
RANGE 4 WEST, MOUNT DIABLO BASE AND MERIDIAN



APN 041-700-010

APN 041-700-011

583°03'13"E 326.64' APN 041-700-003

342.47' (3)

508°03'01"E 235.44' (5)

APN 041-700-005

LANDS OF REID

APN 041-700-004
AREA TO BE ANNEXED
6.04 ACRES

BORRETTE LANE NO. 6
DISTRICT ANNEXATION - NSD
NSD RESOLUTION NO. 04-12
LAFCO CERTIFICATE OF
COMPLETION 2004-0042712
DATED JUNE 10, 2004

LINE DATA

- ① N69°56'20"W 42.90'
- ② S89°57'42"E 26.85'
- ③ S78°33'40"W 40.62'
- ④ N54°11'20"W 44.22'
- ⑤ N84°41'20"W 36.30'
- ⑥ N09°41'20"W 29.04'

LEGEND

- AREA TO BE ANNEXED
- EXISTING ANNEXATION-NSD
- ADJACENT PARCEL
- DISTRICT BOUNDARY
- PROPOSED N.S.D. ANNEXATION BOUNDARY

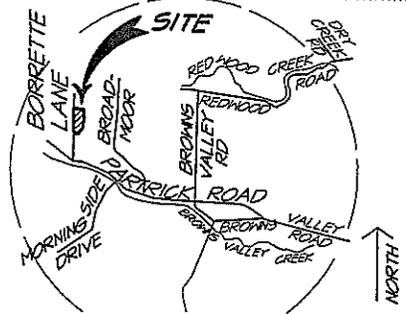
PARTRICK ROAD
BORRETTE LANE - NSD
NSD RESOLUTION NO. 94-118
LAFCO CERTIFICATE OF
COMPLETION 1994-033934
DATED SEPTEMBER 28, 1994

POINT OF BEGINNING

BORRETTE LANE

APN 041-049-007

APN 041-049-008



CONSULTING CIVIL ENGINEERS
**RIECHERS
SPENCE
ASSOCIATES**

1541 Third Street
Napa, Calif. 94559
v 707.252.3301
f 707.252.4966

MAR 3 2008 4105025.010

FINAL

EXHIBIT "B"

TERMS AND CONDITIONS

BORRETTE LANE NO. 8 DISTRICT ANNEXATION – 2008-1

1. Upon and after the effective date of said annexation, the Territory, all inhabitants within such Territory, and all persons entitled to vote by reason of residing or owning land with the Territory, shall be subject to the jurisdiction of the Napa Sanitation District, hereinafter referred to as "the District"; shall have the same rights and duties as if the Territory had been a part of the District upon its original formation; shall be liable for the payment of principal, interest, and any other amounts which shall become due on account of any outstanding or then authorized by thereafter issued bonds, including revenue bonds, or other contracts or obligations of the District; shall be subject to the levying or fixing and collection of any and all taxes, assessments, service charges, rentals or rates as may be necessary to provide for such payment; and shall be subject to all of the rates, rules, regulations and ordinances of the District, as now or hereafter amended.
2. In the event that pursuant to rules, regulations or ordinances of the District, as now or hereafter amended, the District shall require any payment of a fixed or determinable amount of money, either as a lump sum or in installments, for the acquisition, transfer, use or right of use of all or any part of the existing property, real or personal, of the District, such payment will be made to the District in the manner and at the time as provided by the rules, regulations or ordinances of the District, as now or hereafter amended.
3. The property owner shall pay to the District an Annexation Fee of \$850.00, and file with the District a check in the amount of \$500.00 made payable to the State Board of Equalization.
4. The property owner shall pay to the Napa County Assessor's Office a Mapping Services Fee of \$125.00.
5. The property owner shall pay to the District a Plant Expansion Fee for the existing single family dwelling located on the subject parcel, based on the rates in effect at the time they are paid.

12. The property owner shall submit a Plan and Profile of the aforesaid sanitary sewer improvements prepared by a registered civil engineer, conforming with the Rules, Regulations and Ordinances of the District and post the appropriate Labor & Materials and Faithful Performance Bonds guaranteeing said installations.

13. The property owner/developer shall agree to conditions 1, 2, 7, 8, 9 and 10, and fulfill conditions 3, 4, 5, 6, 11 and 12, prior to the District's issuance of a letter to LAFCO authorizing recordation of subject annexation, and in no case more than 1 year after LAFCO's adoption of a resolution approving subject annexation, unless extended by LAFCO. Any extensions granted shall in total not exceed 1 year.

08-borrette 8

California Government Code Section 57001

If a certificate of completion for a change of organization or reorganization has not been filed within one year after the commission approves a proposal for that proceeding, the proceeding shall be deemed abandoned unless prior to the expiration of that year the commission authorizes an extension of time for that completion. The extension may be for any period deemed reasonable to the commission for completion of necessary prerequisite actions by any party. If a proceeding has not been completed because of the order or decree of a court of competent jurisdiction temporarily enjoining or restraining the proceedings, this shall not be deemed a failure of completion and the one-year period shall be tolled for the time that order or decree is in effect.



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April 8, 2009

Kirk and Karen Reid
1020 Borrette Lane
Napa, California 94558

SUBJECT: Approval of Time Extension
Borrette Lane No. 8 District Annexation to the Napa Sanitation District

Mr. and Mrs. Reid:

At its April 6, 2009 meeting, the Local Agency Formation Commission (LAFCO) of Napa County approved your request for a one year time extension to complete the terms and conditions associated with authorizing the annexation of your property located at 1020 Borrette Lane to the Napa Sanitation District.

If you have any questions, please contact me or LAFCO Analyst Brendon Freeman at (707) 259-8645 or by e-mail at ksimonds@napa.lafco.ca.gov.

Thank you,

Keene Simonds
Executive Officer

By:

Brendon Freeman
Analyst

cc: Todd Herrick, Napa Sanitation District

Juliana Inman, Vice Chair
Councilmember, City of Napa

Jack Gingles, Commissioner
Mayor, City of Calistoga

Cindy Coffey, Alternate Commissioner
Councilmember, City of American Canyon

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

Brad Wagenknecht, Commissioner
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January 6, 2010

Kirk and Karen Reid
 1020 Borrette Lane
 Napa, California 94558

SUBJECT: Notice of Deadline to Complete Terms and Conditions:
Borrette Lane No. 8 Annexation to Napa Sanitation District

Mr. and Mrs. Reid:

As you are aware, the Local Agency Formation Commission of Napa County (LAFCO) approved a one-year time extension to complete the terms and conditions associated with the above referenced proposal at its April 6, 2009 meeting. This includes satisfying the financial requirements of the Napa Sanitation District (NSD). It is our understanding this term remains outstanding.

Please note the proposal will be abandoned unless the aforementioned terms are satisfied by April 6, 2010.

If you have any questions, please contact me or LAFCO Analyst Brendon Freeman at (707) 259-8645. You may also want to discuss this matter with Todd Herrick at NSD. Mr. Herrick's telephone number is (707) 258-6000.

Sincerely,

Keene Simonds
 Executive Officer

By:

Brendon Freeman
 Analyst

cc: Todd Herrick

Juliana Inman, Chair
 Councilmember, City of Napa

Lewis Chilton, Commissioner
 Councilmember, Town of Yountville

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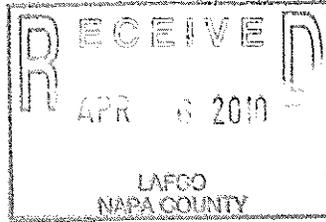
Gregory Rodeno, Alternate Commissioner
 Representative of the General Public

Keene Simonds
 Executive Officer

ATTACHMENT FIVE

Karen & Kirk Reid

1020 Borrette Lane
Napa, CA 94558
707-252-3195



April 2, 2010

Brendon Freeman
Analyst, LAFCO of Napa County
1700 Second Street, Suite 268
Napa, CA 94559

RE: Borrette Lane No. 8 Annexation to NSD

Dear Mr. Freeman:

Thank you for your recent notification. Unfortunately, due to the current economic situation, we must withdraw our application to annex our project to the Napa Sanitation District.

We hope that, as the economy recovers, we will be able to reapply at a future time.

Thank you for your consideration.

Sincerely,

Kirk Reid