



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

1030 Seminary Street, Suite B  
Napa, California 94559  
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*We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture*

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**Agenda Item 6c (Public Hearing)**

**TO:** Local Agency Formation Commission

**PREPARED BY:** Brendon Freeman, Executive Officer

**MEETING DATE:** December 4, 2017

**SUBJECT:** Approval of an Outside Service Agreement Involving the Napa Sanitation District and 410 Stonecrest Drive and Associated CEQA Exemption

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**RECOMMENDATION**

It is recommended the Commission take the following actions:

- 1) Open the public hearing and take testimony regarding the approval of an outside service agreement involving the Napa Sanitation District (NSD) and 410 Stonecrest Drive and associated CEQA exemption;
- 2) Close the public hearing;
- 3) Adopt the draft resolution, which includes the required findings to (a) approve CEQA exemption determinations and (b) authorize NSD to conditionally provide outside sewer service to 410 Stonecrest Drive to address a threat to public health and safety (Attachment Five).

**BACKGROUND AND SUMMARY**

The Commission established its Policy on Outside Service Agreements (“the Policy”) in November 2008 and most recently amended the Policy in April 2016. The Policy serves as a uniform guide to the Commission in considering requests by cities and special districts in providing new or extended outside services in a manner responsive to local conditions and preferences. This includes outlining specific policies and procedures in considering requests by local agencies to provide services outside both their jurisdictional boundaries and spheres of influence; requests that can only be accommodated under California Government Code (G.C.) Section 56133 to address existing or impending threats to public health or safety. The Policy is included as Attachment One.

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Vacant, Commissioner  
Councilmember, City of Napa

Margie Mohler, Commissioner  
Councilmember, Town of Yountville

Kenneth Leary, Alternate Commissioner  
Councilmember, City of American Canyon

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

Diane Dillon, Commissioner  
County of Napa Supervisor, 3rd District

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

Brian J. Kelly, Vice Chair  
Representative of the General Public

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Brendon Freeman  
Executive Officer

On October 16, 2017, County of Napa Environmental Health submitted a letter (Attachment Two) to the Commission's Executive Officer stating the septic system serving 410 Stonecrest Drive (Assessor Parcel Number 052-080-026) is discharging sewage to the surface of the ground. Pursuant to County Code, sewage on the surface of the ground constitutes a failure of the septic system and is a threat to public health. Options to replace and/or relocate the septic system are limited due to soil conditions based on a recent site evaluation. The letter recommends 410 Stonecrest Drive be allowed to connect to the Napa Sanitation District (NSD) to resolve the issue.

On November 16, 2017, NSD submitted a formal request (Attachment Three) to the Commission to authorize the District to extend permanent public sewer service to 410 Stonecrest Drive; an approximate 2.8-acre unincorporated parcel located east of the intersection of Stonecrest Drive and Hillside Avenue. The subject parcel is developed with an existing five-bedroom residence and two-bedroom second unit. The subject parcel is outside the jurisdictional boundaries and spheres of influence of both NSD and the City of Napa. Notably, NSD's request is specific to only the five-bedroom residence based on the fact that the two-bedroom second unit is not connected to the failed private septic system. Further, NSD has reported the subject parcel is located approximately 100 feet from the nearest NSD sewer main.

## **ANALYSIS**

### ***Policy Considerations***

The Policy only contemplates approving requests for outside service agreements involving lands outside a local agency's sphere of influence for purposes of addressing a threat to public health or safety if four specific criteria factors apply. Three of the four criteria factors – legal lot as of January 2001, adjacent to an existing service line, and accommodate a single-family use – apply to NSD's request to provide outside sewer service to 410 Stonecrest Drive. A fourth factor – zoned for residential use – does not apply since the property is zoned by the County as *Agricultural Watershed*. Given that this fourth factor does not apply to NSD's request, the Commission's approval is discretionary.

Approving outside sewer service extensions into agricultural zoned lands is generally discouraged based on the Commission's mandates and policies. However, in this specific circumstance, NSD's request to extend sewer service to 410 Stonecrest Drive appears reasonable given three unique factors specific to the subject parcel. First, the subject parcel is already developed with a single-family residence and second unit, and therefore cannot be further divided under existing zoning allowances.<sup>1</sup> Second, because it is also designated for an agricultural use under the County General Plan, the subject parcel cannot be re-designated for an urban use without voter approval under Measures J and P.<sup>2</sup> Third, an existing sewer line of NSD is located within 100 feet of the subject parcel. These unique factors provide reasonable assurances outside sewer service to the subject

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<sup>1</sup> The County's *Agricultural Watershed* zoning assignment requires a minimum lot size of 160 acres.

<sup>2</sup> The subject parcel is designated under the County General Plan as *Agriculture, Watershed and Open Space*.

parcel will not facilitate urban encroachment into agricultural lands or establish a broad policy precedent for replication elsewhere while also removing a septic system from a groundwater deficient area through a nominal infrastructure expansion.

### ***Mandatory Considerations***

The Policy requires consideration of three specific factors in reviewing requests from local agencies for outside service agreements. An analysis of all three factors as it relates to the request by NSD to extend sewer service to 410 Stonecrest Drive follows.

- **Ability of Agency to Extend Services to the Affected Land**  
The subject parcel currently receives sewer service through a private septic system that has failed. It is estimated the current average daily sewer flow generated from the subject parcel when occupied is 210 gallons during dry-weather periods and could increase by two and one-half to 525 gallons during wet-weather periods. These current flow estimates represent approximately 0.003% of NSD's current system dry-weather flow and would consume approximately 0.002% of the District's permitted treatment plant capacity. Further urban development of the subject parcel is prohibited under the County's General Plan and Zoning Ordinance. Additionally, NSD will require the landowner of the subject parcel to finance a study of the capacity of the local sewer infrastructure prior to connecting to the sewer system.
- **Consistency with the Policies and General Plans of the Affected Agencies**  
See preceding section.
- **Effect on Growth and Development Within and Adjacent to Affected Land**  
See preceding section.

### ***Approval Conditions***

The Commission has broad authority to condition approvals under G.C. Section 56133 so long as the terms do not directly regulate land uses. Toward this end, the following approval conditions are recommended if the Commission authorizes NSD to provide outside sewer service to 410 Stonecrest Drive.

- Receipt of written consent by the Executive Officer from the landowners agreeing to annex the subject parcel to NSD if and when it is deemed appropriate by the Commission. The consent will include the landowners agreeing to cover their proportional cost to annex the subject lot consistent with the adopted fee schedule.
- Written confirmation from NSD that the District's Board of Directors has approved an agreement to serve 410 Stonecrest Drive.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The Commission serves as the lead agency under CEQA and is responsible for making findings with respect to the potential environmental impacts associated with authorizing outside sewer service to 410 Stonecrest Drive. Staff has reviewed the request and has determined it is a project subject to CEQA, but qualifies for an exemption from further review under Public Resources Code Section 21080(b)(4). The statute provides categorical exemptions for “specific actions necessary to prevent or mitigate an emergency.” Accordingly, if the request is approved, staff will file a notice of exemption with the County Clerk-Recorder’s Office as required under CEQA within five business days.

## **ALTERNATIVES FOR COMMISSION ACTION**

Staff has identified three alternatives for Commission consideration.

### **Alternative Action One (Recommended):**

Adopt the draft resolution, which includes the required findings to (a) approve CEQA exemption determinations and (b) authorize NSD to provide outside sewer service to 410 Stonecrest Drive to address a threat to public health and safety (Attachment Five). Approval conditions would apply as specified in this report unless otherwise provided by the Commission.

### **Alternative Action Two:**

Continue consideration of NSD’s request to provide outside sewer service to 410 Stonecrest Drive to a future meeting and direct staff to provide additional information as specified.

### **Alternative Action Three:**

Deny NSD’s request to provide outside sewer service to 410 Stonecrest Drive.

## **ATTACHMENTS**

- 1) Policy on Outside Service Agreements
- 2) Letter from County of Napa Confirming Threat to Public Health (October 16, 2017)
- 3) Request from NSD to Provide Permanent Outside Sewer Service to 410 Stonecrest Drive (November 16, 2017)
- 4) Maps of 410 Stonecrest Drive
- 5) Draft Resolution of Conditional Approval



## LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

### *Policy on Outside Service Agreements*

Adopted: November 3, 2008

Last Amended: April 4, 2016

#### **I. Background**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 includes provisions requiring cities 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 (Government Code Sections 56133 and 56133.5). The Commission may authorize a city 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 or special district to provide new or extended service outside its jurisdictional boundary *and* sphere of influence (a) to address an existing or future threat to the public health or safety or (b) if the Commission makes the determinations set forth in Section IV(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 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 and special districts outside their jurisdictional boundaries is logical and consistent with supporting orderly growth and development in Napa County. The Commission recognizes the importance of considering local conditions and circumstances in implementing these policies.

#### **IV. Outside Service Agreement Policies**

##### **A. General Statements**

- 1) Annexations to cities and special districts involving territory located within the affected agency's sphere of influence is generally preferred to outside service agreements. The Commission recognizes, however, there may be instances when outside service agreements involving territory within the affected agency's sphere of influence is appropriate given local circumstances.

- 2) The Commission may authorize a city or special district's request to provide new or extended services outside its jurisdictional boundary and sphere of influence in response to either an (a) existing or (b) impending threat to public health or safety, if the requirements of Government Code Section 56133, subsection (c) are met.
- 3) The Commission recognizes the importance of proactively addressing impending threats to public health and safety in considering requests for outside water and sewer services pursuant to Government Code Section 56133, subsection (c), in support of existing and planned public-serving or residential uses with reasonable access to existing infrastructure.<sup>1</sup> Accordingly, the Commission will consider outside water and sewer service requests for purposes of addressing an impending public health or safety threat if all of the following criteria is applicable:
  - (a) The subject property is zoned for public-serving or residential use by the affected land use authority.
  - (b) The subject property comprises a legal lot of record as of January 1, 2001.
  - (c) The subject property is adjacent to a public right-of-way in which the affected service line is located.
  - (d) The proposed service extension can be accommodated by an appropriate connection for public-serving or single-family residential use.
- 4) Until December 31, 2020, the Commission may authorize a city or special district to provide new or extended services outside its jurisdictional boundary and sphere of influence in accordance with Government Code Section 56133.5 if all of the following determinations are made at a noticed public hearing:
  - (a) The proposed service extension or services deficiency was identified and evaluated in a municipal service review.
  - (b) The proposed service extension will not result in either: (1) growth inducing impacts; or (2) adverse impacts on open space or agricultural lands.
  - (c) Inclusion of the area to be served in the agency's sphere of influence is not feasible or desirable based on the Commission's adopted policies.
- 5) The Commission authorizes the Chair to approve a city or special district's request for an outside service agreement if there is an existing or impending public health or safety emergency. The Commission shall ratify the Chair's determination at the next regular scheduled meeting.

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<sup>1</sup> "Planned use" means any project that is included in an approved specific plan as of July 1, 2015.

- 6) All requests for outside service agreements are subject to the applicable provisions of the California Environmental Quality Act.
- 7) Commission approval is not required for cities or special districts to provide new or extended services outside their jurisdictional boundaries if any of the following conditions apply in accordance with Government Code Section 56133(e):
  - (a) The agreement involves two or more public agencies where the contracted service is an alternative or substitute for public services already 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.
  - (b) The agreement involves the transfer of non-potable or non-treated water.
  - (c) The agreement involves the provision of surplus water to agricultural lands and facilities for conservation projects or to directly support agricultural industries, unless the surplus water will be provided to a project that will support or induce development.
  - (d) The agreement involves an extended service that a city or special district was providing on or before January 1, 2001.
  - (e) The agreement involves a local publicly owned electric utility (as defined by Public Utilities Code Section 9604, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility outside the utility's jurisdictional boundary.
  - (f) The agreement involves a fire contract as defined in subdivision (a) of Government Code Section 56134.

The Commission encourages cities and special districts to work with the Executive Officer in determining when the above exemptions may apply.

## **B. Form of Request**

Requests to authorize an outside service agreement shall be filed with the Executive Officer by the affected city or special district. Requests shall be made in writing with a cover letter accompanying a completed application using the form provided in Attachment A. Requests shall also include a check in the amount prescribed under the Commission's adopted fee schedule along with a copy of the proposed service agreement. The application shall be signed by an authorized representative of the city or special district.

### **C. 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.

### **D. Consideration of Request**

Once a request is deemed complete, the Executive Officer will prepare a written report with a recommendation. 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 regular 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 Executive Officer's written report will be made available to the public for review prior to the scheduled hearing and include an evaluation of the following three factors:

- 1) The ability of the applicant to extend the subject service to the affected land.
- 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 land.

The Commission may approve the request with or without conditions. If denied, the affected city or special district can ask for reconsideration within 30 days.





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Napa, CA 94559  
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David Morrison  
Director

October 16, 2017

BRENDON FREEMAN, EXECUTIVE OFFICER  
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY  
1030 SEMINARY STREET, SUITE B  
NAPA, CALIFORNIA 94559

Subject: **Septic System, 410 Stonecrest Drive, APN 052-080-026-000**

Dear Mr. Freeman:

This department has received septic system inspection reports from P&R Septic Systems and McCollum General Engineering which both state that the septic system serving the subject parcel is discharging sewage to the surface of the ground and both recommend that the septic system be replaced. As defined in Napa County Code section 13.16.165 sewage on the surface of the ground constitutes a failure of the septic system and is a threat to public health.

A site evaluation at the subject site was performed by Riechers, Spence, and Associates on September 14, 2017 for the purpose of replacing the failing septic system. The site evaluation determined that there is insufficient area to install a code compliant system for the existing dwelling and guest house, therefore this department recommends that the subject parcel be allowed to connect to the Napa Sanitation District to resolve the issue.

Best Regards,

A handwritten signature in black ink, appearing to read "Darell Choate".

Darell Choate, R.E.H.S.  
Environmental Health Specialist



November 16, 2017

Mr. Brendon Freeman  
Executive Officer  
Local Agency Formation Commission of Napa County  
1030 Seminary Street, Suite B  
Napa, CA 94559

RE: Outside Service Agreement Application for 410 Stonecrest Drive  
(APN 052-080-026)

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 410 Stonecrest Drive (APN 052-080-026) in the County 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 and creates a threat to public health as stated in the letter from Napa County Environmental Health dated October 16, 2017.

If you have further questions, please contact Matt Lemmon at (707) 258-6000 ext 504.

Sincerely,

Timothy E. Healy, P.E.  
General Manager

NapaSan  
1515 Soscol Ferry Road  
Napa, CA 94558

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

[www.napasandist.com](http://www.napasandist.com)

Attachments: Outside Service Agreement Application



**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY**

**APPLICATION  
OUTSIDE SERVICE AGREEMENT**

**A. Applicant Information**

- 1) Agency Name: Napa Sanitation District
- 2) Contact Person and Title: Matt Lemmon, Senior Civil Engineer
- 3) Contact Information: (707) 258-6004 Telephone      mlemmon@napasani.com E-Mail
- 4) Mailing Address: 1515 Soscol Ferry Road Address      Napa CA 94558 City, State, Zip Code

**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: 052-080-026  
Size: 2.8 ac 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.

The owner of 410 Stonecrest Drive will extend public sewer infrastructure in Stonecrest Drive.

- 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 anticipated sewer use of the single family home will be 210 gallons per day.

- 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?

The capacity of the local sewer infrastructure will be studied by the owner of 410 Stonecrest Drive before connection is permitted.

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

City of Napa water

**E. Additional Information**

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

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- 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.

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- 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.

Napa County determined that the septic system has failed and is a threat to public health.

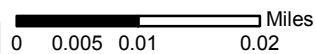
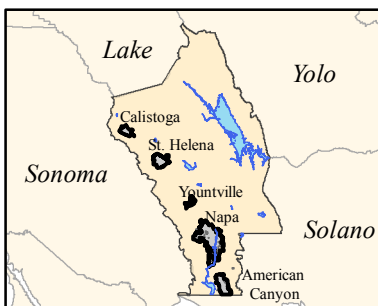
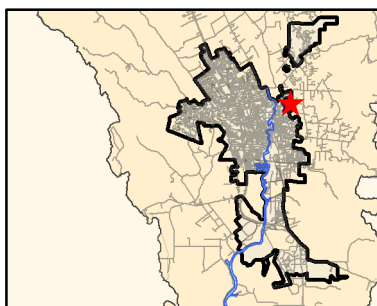
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# 410 Stonecrest Drive



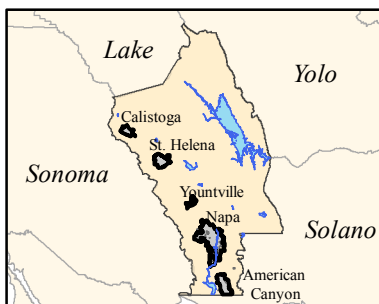
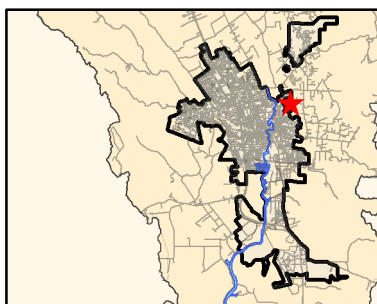
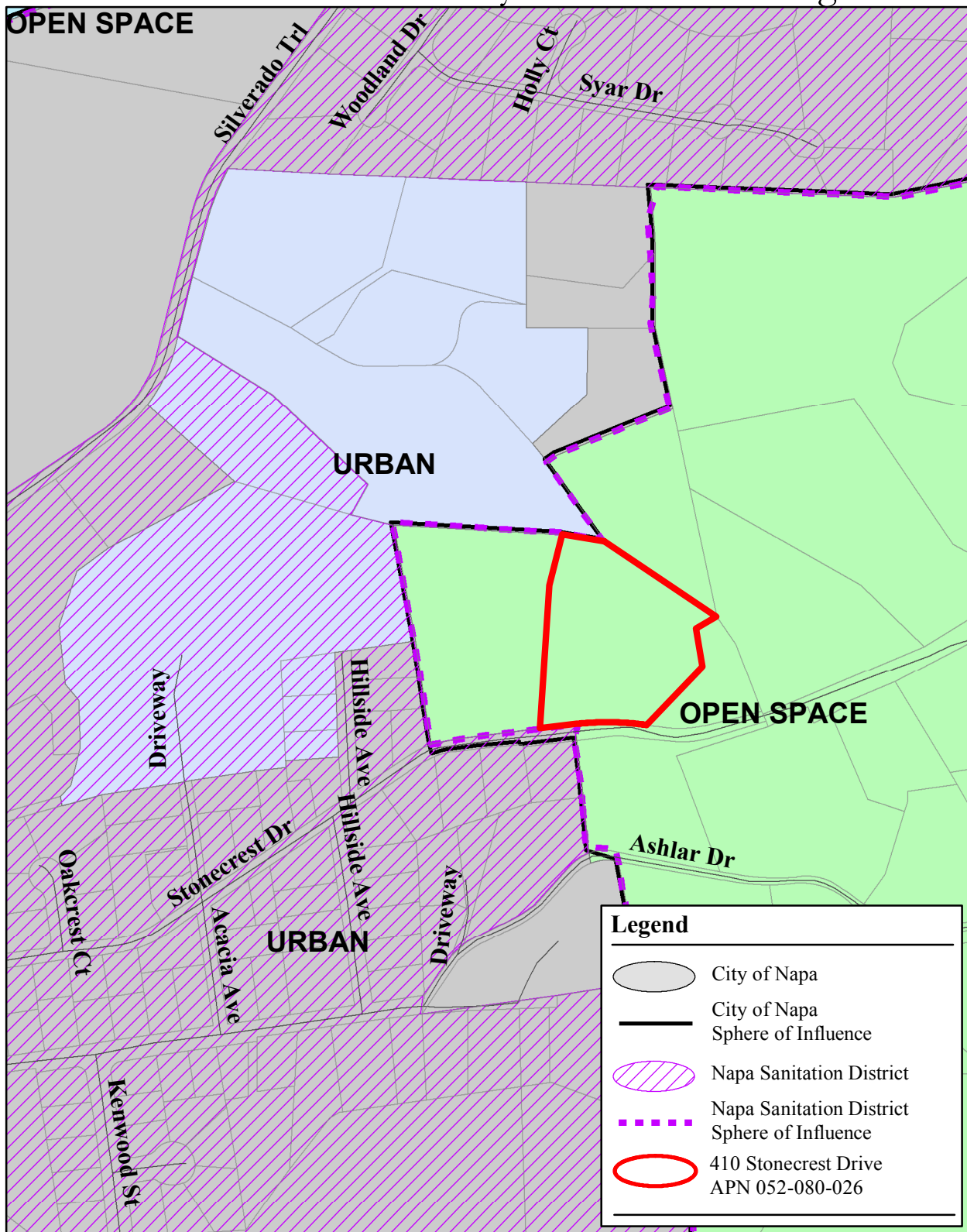
November 8, 2017  
Prepared by BF



**LAFCO of Napa County**  
1030 Seminary Street, Suite B  
Napa, California 94559  
[www.napa.lafco.ca.gov](http://www.napa.lafco.ca.gov)



# 410 Stonecrest Drive County General Plan Designation



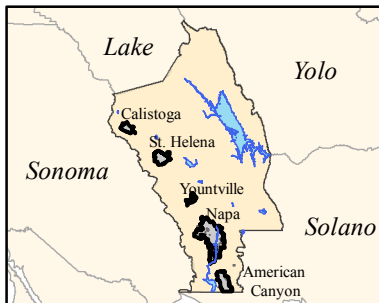
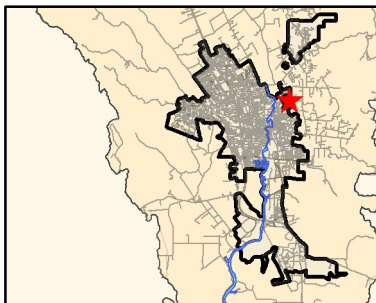
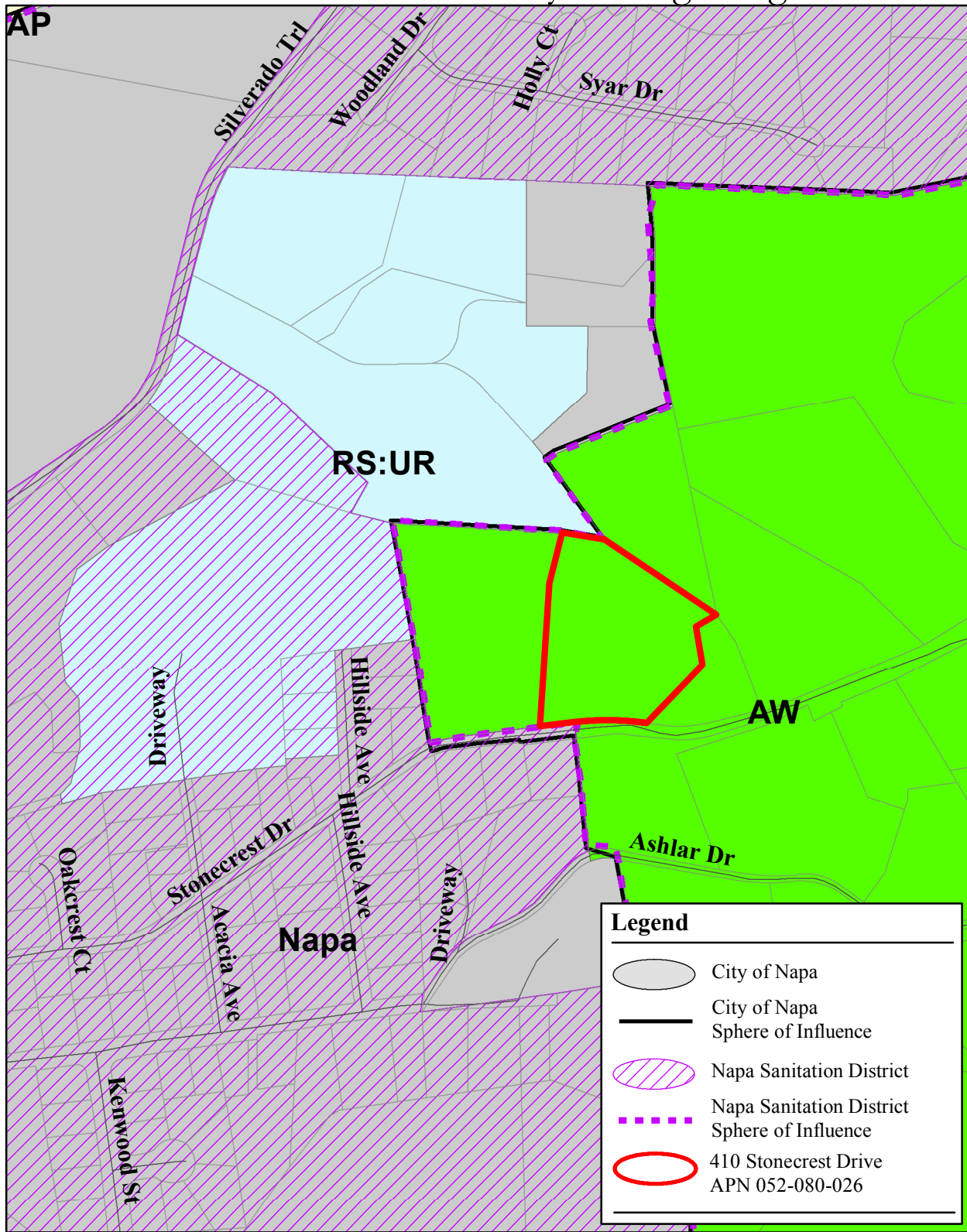
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October 23, 2017  
Prepared by BF



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

# 410 Stonecrest Drive County Zoning Assignment



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October 23, 2017  
Prepared by BF



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



**RESOLUTION NO. \_\_\_\_\_**

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

**APPROVAL OF AN OUTSIDE SEWER SERVICE AGREEMENT REQUEST  
NAPA SANITATION DISTRICT AND 410 STONECREST DRIVE (052-080-026)**

**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’s Executive Officer received request from the Napa Sanitation District seeking Commission approval of an outside sewer service agreement involving territory located at 410 Stonecrest Drive in unincorporated Napa County (052-080-026), hereinafter referred to as the “request”; and

**WHEREAS**, the subject territory lies outside the adopted sphere of influence established for the Napa Sanitation District; and

**WHEREAS**, California Government Code Section 56133 allows the Commission to authorize new or extended services outside the affected agency’s jurisdictional boundary and sphere of influence in response to an existing or impending threat to public health or safety; and

**WHEREAS**, the request includes documentation provided by County of Napa Environmental Health recommending connecting 410 Stonecrest Drive to the Napa Sanitation District to address an impending threat to public health and safety given the subject lot’s septic system has failed; and

**WHEREAS**, the Executive Officer prepared and presented a written report on the request to the Commission in the manner provided by law and adopted policy;

**WHEREAS**, the Commission received and fully considered all the evidence presented by the Executive Officer on the request at a public meeting held on December 4, 2017.

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

1. In accordance with the applicable provisions of the California Environmental Quality Act (CEQA), the Commission finds the request is a project that is exempt from further review under Public Resources Code Section 21080(b)(4). The statute provides categorical exemptions for “specific actions necessary to prevent or mitigate an emergency.” The Commission finds the request qualifies for this exemption given the extension of public sewer service to the subject territory addresses an impending threat to public health and safety based on evidence of a failed septic system. The records in 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 approves the request on the basis that approval addresses an impending threat to public health and safety as provided under Section 56133.
3. The Commission’s approval is subject to the following conditions.
  - (a) Receipt of written consent from the affected landowners agreeing to annex the subject territory if and when it is deemed appropriate by the Commission. The consent will include the landowners agreeing to cover their proportional cost to annex the subject territory consistent with the Commission’s adopted fee schedule unless waived.
  - (b) Receipt of written confirmation from the Napa Sanitation District that the District’s Board of Directors has approved an agreement to serve 410 Stonecrest Drive.

The foregoing resolution was duly and regularly adopted by the Commission at a regular meeting held on December 4, 2017, by the following vote:

AYES:           Commissioners \_\_\_\_\_

NOES:           Commissioners \_\_\_\_\_

ABSTAIN:       Commissioners \_\_\_\_\_

ABSENT:        Commissioners \_\_\_\_\_

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Brad Wagenknecht  
Commission Chair

ATTEST: \_\_\_\_\_  
Brendon Freeman  
Executive Officer

Recorded by: Kathy Mabry  
Commission Secretary