



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

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

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**February 3, 2014**  
**Agenda Item No. 6b (Public Hearing)**

January 28, 2014

**TO:** Local Agency Formation Commission

**FROM:** Peter Banning, Acting Executive Officer  
Brendon Freeman, Analyst

**SUBJECT: Ratification of an Outside Water Service Agreement for the City of Napa Involving 4120 Howard Lane (036-180-040)**

The Commission will consider a recommendation to ratify an outside service agreement approved by the Chair authorizing the City of Napa to provide permanent public water service to an unincorporated property located at 4120 Howard Lane to address a public health threat.

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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 or disapproving requests from cities and special districts to provide new or extended municipal services outside their jurisdictions under California Government Code (G.C.) Section 56133. LAFCOs are authorized to condition approval for outside service agreements as long as the terms do not directly regulate land uses.

**A. Background**

LAFCO of Napa County (“Commission”) received a written request on September 25, 2013 from the City of Napa to approve an outside service agreement to allow the City to immediately extend permanent public water service to one unincorporated lot located at 4120 Howard Lane. The affected lot is 5.6 acres and includes a restaurant, six multi-family residential units, and three single-family residential units. The affected lot lies outside Napa’s sphere of influence. The Executive Officer processed the request consistent with the Commission’s adopted policies and procedures. This process culminated with then-Chair Wagenknecht approving the outside service agreement on October 21<sup>st</sup> upon confirmation the groundwater well serving the residences is deficient in supply and inadequate in quality, creating an urgent public health threat. Commission policy requires the Chair’s approval be ratified by the membership at the next regular meeting as part of a noticed public hearing to disclose the action for the general public.

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Joan Bennett, Vice Chair  
Councilmember, City of American Canyon

Greg Pitts, Commissioner  
Councilmember, City of St. Helena

Juliana Inman, Alternate Commissioner  
Councilmember, City of Napa

Brad Wagenknecht, Commissioner  
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, Chair  
Representative of the General Public

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Peter Banning  
Acting Executive Officer



## **B. Discussion**

The purpose of the request before the Commission is to formally authorize the extension of permanent public water service to a mixed commercial/residential lot in a manner responsive to local conditions and statutory requirements. As mentioned, the groundwater serving the residential portion of the affected lot is deficient and inadequate, creating a threat to public health. The landowner has entered into an outside service agreement with Napa to allow connection to the agency's public water system.

## **C. Analysis**

G.C. Section 56133 requires cities and special districts to request and receive written approval from LAFCO before entering into agreements to provide new or extended services outside their jurisdictional boundaries. LAFCOs are delegated broad discretion in considering outside service extensions with the caveat of complying with two geographic requirements. First, LAFCO may only approve outside service extensions within the affected agency's sphere of influence in anticipation of a future annexation. Second, LAFCO may only approve outside service extensions beyond an agency's sphere of influence to respond to an existing or impending public health or safety threat.

***Required Factors for Review***

Commission policy requires it to consider three factors in reviewing outside service agreement requests. An analysis of all three factors as it relates to the outside service agreement between Napa and the landowner of the affected territory is included in then-Chair Wagenknecht's letter of approval, which is attached for Commission review. This analysis is incorporated into this staff report below for purposes of the Commission considering the ratification of the Chair's approval.

***Environmental Review***

Discretionary actions by public agencies are subject to the California Environmental Quality Act (CEQA) any time an underlying activity will result in a direct or indirect physical change to the environment. A lead agency has the principal responsibility for carrying out or approving the underlying activity consistent with the provisions of CEQA. This includes determining whether the underlying activity qualifies as a "project." If the activity is determined to be a project, the lead agency must determine if an exemption applies or if additional environmental review is needed, such as preparing an initial study. A responsible agency is accountable for approving an associated aspect of the underlying activity and must rely on the lead agency's determination in making its own CEQA finding.

Napa serves as the lead agency given that the City has taken the first discretionary action to approve the project in its resolution of application to LAFCO for extension of water service to the affected territory. Napa has determined this activity is a project under 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." The Commission serves as responsible agency. Staff believes Napa has made an adequate determination the underlying activity is categorically exempt from further review given it mitigates a public health threat.

**D. Recommendation**

Staff recommends the Commission ratify the Chair's earlier approval of the outside water service agreement between Napa and the landowner for 4120 Howard Lane. Ratification would affirm the public policy merits of expediting the extension of public water service to a developed commercial/residential lot to help abate a documented public health threat.

## **E. Alternatives for Commission Action**

Staff has identified the following alternative actions for Commission consideration.

Alternative One (Recommended):

Adopt the draft resolution identified as Attachment Three ratifying the Chair's approval of the outside service agreement.

Alternative Two:

Continue consideration of the outside service agreement approval request to the next regular meeting and provide direction to staff for any additional information.

Alternative Three:

Deny ratification approval of the outside service agreement. Denial would require Napa to discontinue service immediately.

## **F. Procedures for Consideration**

This item has been agendized for public hearing as required under adopted policy. The following procedures are recommended with respect to the Commission's consideration of this item:

- 1) Receive verbal report from staff;
- 2) Open the public hearing an invite public testimony;
- 3) Close the public hearing; and
- 4) Discuss item and consider action on recommendation.

Respectfully submitted,

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Peter Banning  
Acting Executive Officer

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Brendon Freeman  
Analyst

Attachments:

- 1) City of Napa Application Materials
- 2) Chair Wagenknecht's Letter Approving the Outside Service Agreement
- 3) Draft Resolution Ratifying Approval



## LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

### APPLICATION OUTSIDE SERVICE AGREEMENT

#### A. Applicant Information

- 1) Agency Name: City of Napa
- 2) Contact Person and Title: Joy Eldredge, Water Division General Manager
- 3) Contact Information: 257-9319  
jeldredge@cityofnapa.org  
 Telephone E-Mail
- 4) Mailing Address: P.O. Box 660 Napa, CA 94559  
 Address City, State, Zip Code

#### B. Type of Outside Service Agreement

- 1) New  Extended   Other: modification of existing service
- 2) Water  Sewer  Other: \_\_\_\_\_

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

- 1) Assessor Parcel Number: 036-180-040-000  
 Size: 5.6 Ac. Current Use: Commercial, Residential
- 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 City has an existing 8-inch water main in Mosswood Blvd to which an existing 2-inch service lateral serves the subject parcel.**

- 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. For extended service, please estimate the difference in comparison to existing demand.

**Based on estimates of fixture units in the existing structures, the increase from commercial use only to include the existing residential structures on the property is 75GPM. The 2-inch meter to be installed at the site has the ability to flow 160 GPM. The estimated demand is 1.1 acre-feet (358,437) per year.**

- 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 City has sufficient treatment, storage, and conveyance capacity to accommodate the new water service without adversely effecting existing service levels.**

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

**A commercial service is currently provided to the subject parcel through an existing 2-inch pipe and 1 ½-inch meter.**

**E. Additional Information**

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

**The subject property has a County zoning designation of AP, Agricultural Preserve.**

- 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

**The granting of water service to existing residences on a parcel previously served is categorically exempt pursuant to CEQA Guidelines Section 15302(c) involving no expansion of capacity of existing utility systems.**

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 future threat to public health and safety or to the residents in support of the application.

**The property owner has indicated an existing threat to health and safety due to a lack of groundwater on the subject parcel to support the existing residences. City of Napa City Council has authorized the Amendment to Agreement for existing water service, subject to LAFCO approval, to address the existing threat to public health or safety. See attached City of Napa Resolution R2013-76.**

**CITY OF NAPA CITY COUNCIL  
AGENDA REPORT**

ADMIN CALENDAR  
Agenda Item No. 6A  
Date: August 20, 2013

To: Honorable Mayor and Members of City Council

From: Jacques R. LaRochelle, Public Works Director

Prepared by: Joy Eldredge, Water General Manager

Subject: Amendment to Outside City Water Service Existing Covenants Agreement

**ISSUE STATEMENT:**

Adopt a resolution to authorize the Public Works Director to execute an Amendment to Existing Covenants and Agreement Regarding Water Service to 4120 Howard Lane (APN 036-180-040-000), and determine that the project is exempt from CEQA pursuant to CEQA Guidelines Section 15302(c).

**DISCUSSION:**

The City received an Outside Water Service Application (see Attachment 2) to amend the existing Agreement for service at 4120 Howard Lane, APN (036-180-040-000) (see map Attachment 3). An Agreement for commercial service was granted to this property for Bistro Don Giovanni through 4/5 vote approved by Council on May 1, 2007. The property has requested an amendment to the Agreement to also serve the existing multifamily residences served on the property to address an impending threat to the health and safety of the existing residents.

Since the property is outside the City limits and outside the City Rural Urban Limit Line ("RUL"), City Charter Section 180 (see Attachment 4) limits extension of water service except under specified situations. The City Council has, by Policy Resolution No. 7, (see Attachment 5) delegated authority to the Public Works Director to approve extensions of City water service outside the RUL if the Public Works Director is able to make certain findings for single family residential property. However, since these applications are for multifamily residential use, Policy Resolution No. 7 does not apply. Therefore, the applicant has requested that City Council consider the request for water service per the provisions of City Charter Section 180, which allows approval of City water service outside the RUL by a four-fifths (4/5) vote of the City Council.



Under State LAFCO law (the Cortese-Knox-Hertzberg Local Government Reorganization Act), particularly California Government Code Section 56133 (see Attachment 6), the Local Agency Formation Commission of Napa County ("LAFCO") is required to review and approve any proposed new or extended water service outside the City limits. Generally, LAFCO can only approve an extension of City service to areas beyond the City boundary if the territory is within the City's Sphere of Influence.

However, there are exceptions to the law and pursuant to Government Code Section 56133, LAFCO may authorize a new water service outside the City's sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory.

The letter accompanying the application for the Outside City water service indicates that the existing multifamily residences on the property are experiencing inadequate water supply through their groundwater well and therefore are facing an impending threat to their health and safety. Since the 2007 approval of commercial service to the property, the demands on the well have been reduced; however, the well remains insufficient to safely provide water for the existing residents driving the applicant to request the City to allow use of the City water service to protect the health and safety of the residents (see Attachment 7).

The existing water main and service lateral that serves the parcel is sufficient to serve the commercial water service and additional multifamily residences and only an upgrade to the meter from 1-½" to 2" is required to serve the proposed uses. No expansion or alteration of the existing service lateral is necessary to provide adequate service.

City staff has evaluated the application and concluded that the City is reasonably able to supply water for the water service requested by the applicant. The estimated demand of the service is less than 1 acre-foot per year. This demand will have no adverse effect on water supply availability. The City has sufficient treatment, storage, and conveyance capacity to accommodate the requested service.

Staff recommends that the City Council make a finding of impending threat to health and safety and approve the applicant's request to grant approval for the additional use to the aforementioned properties, subject to LAFCO's concurrence of the findings of a threat to public safety and health, and subject to the applicant's execution of an Amendment to the Agreement in a form satisfactory to the Public Works Director, and approved as to form by the City Attorney (see Attachment 8).

#### **FINANCIAL IMPACTS:**

The City would gain additional revenue from the sale of water through the existing service and the 2" meter that would be upgraded from the existing 1-½" meter for the account. The customer would be responsible for paying a one-time connection fee reflecting the upgrade to the 2" meter less credits for the existing 1-½" meter for a net cost of \$8,100.

**CEQA:**

Previously adopted environmental impact reports for the City General Plan and the City Water System Optimization and Master Plan adequately evaluated the potential environmental impacts of this action, and no further environmental review is required pursuant to CEQA Guidelines Section 15302(c).

**DOCUMENTS ATTACHED:**

1. Attachment 1: Resolution authorizing the Public Works Director to execute an amendment to existing covenants and agreement regarding water service to 4120 Howard Lane (APN 036-180-040-000)
2. Attachment 2: Outside Water Service Application No. 643
3. Attachment 3: Location Map of the subject property
4. Attachment 4: Charter Section 180
5. Attachment 5: Policy Resolution No. 7
6. Attachment 6: Government Code 56133
7. Attachment 7: Letters from the Applicant
8. Attachment 8: Amendment to Covenants and Agreement Regarding Water Service

**NOTIFICATION:**

George Altamura, 101 S Coombs Street, Suite A

**RECOMMENDED ACTION:**

City staff recommends that the City Council move, second and approve each of the actions set forth below, in the form of the following motion. Move to:

Adopt a resolution authorizing the Public Works Director to execute an amendment to existing covenants and agreement regarding water service to 4120 Howard Lane (APN 036-180-040-000).

**RESOLUTION R2013-76**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, AUTHORIZING THE PUBLIC WORKS DIRECTOR TO EXECUTE AN AMENDMENT TO EXISTING COVENANTS AND AGREEMENT REGARDING WATER SERVICE TO 4120 HOWARD LANE (APN 036-180-040-000)**

WHEREAS, on May 1, 2007, the City Council through 4/5 vote approved an Agreement for outside water service to the property at 4120 Howard Lane (APN 036-180-040-000) for the purpose of commercial use at Bistro Don Giovanni; and

WHEREAS, the Public Works Water Division has received an "Application" to amend the existing Agreement for service at 4120 Howard Lane (APN 036-180-040-000) to serve the existing multifamily residences on the property to address an impending threat to the health and safety of the existing residents; and

WHEREAS, City Charter Section 180 prohibits extension of water service outside City limits and the City Rural Urban Limit Line (RUL) unless the extension is approved by a four-fifths (4/5) vote of the City Council (or under limited exceptions not applicable to this Application); and

WHEREAS, the property which is the subject of this Application, at 4120 Howard Lane (APN 036-180-040-000), is outside the RUL and requires four-fifths (4/5) vote of approval by City Council to be granted service; and

WHEREAS, under State LAFCO law (the Cortese-Knox-Hertzberg Local Government Reorganization Act), particularly California Government Code Section 56133, the Local Agency Formation Commission of Napa County ("LAFCO") is generally required to review and approve any proposed new or extended water service outside the City limits (subject to exceptions to this general rule that are not applicable to this Application); and

WHEREAS, pursuant to Government Code Section 56133, LAFCO can only approve an extension of City water service to property outside the City limits if the property is within the City's Sphere of Influence (which does not apply to this Application), or the water service is to respond to an existing or impending threat to the public health or safety of the residents of the affected property; and

WHEREAS, since the 2007 approval of commercial service to the property, the demands on the well have been reduced, however, the well remains insufficient to safely provide water for the existing residents; and

WHEREAS, the applicant requested the City to allow use of the City water service to protect the health and safety of the residents; and

**WHEREAS, City staff has evaluated the Application and concluded that the estimated demand of the service is less than 1 acre-foot per year and this demand will have no adverse effect on water supply availability; and**

**WHEREAS, City staff has evaluated the Application and concluded that the City has sufficient treatment, storage, and conveyance capacity to accommodate the requested service; and**

**WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.**

**NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Napa, as follows:**

**1. The City Council hereby finds that the facts set forth in the recitals to this Resolution are true and correct, and establish the factual basis for the City Council's adoption of this Resolution.**

**2. The City Council hereby determines that the Recommended Action is exempt from CEQA pursuant to CEQA Guidelines Section 15302(c), Replacement or Reconstruction, which exempts replacement and reconstruction of existing utility systems involving no expansion of capacity.**

**3. The City Council hereby authorizes by at least 4/5 vote of the City Council, extension of outside-City water service to APN (036-180-040-000) at 4120 Howard Lane to address an existing or impending threat to public health or safety to the existing residents of the property, subject to: (a) execution of an Amendment to the Covenants and Agreement Regarding Water Service in a form satisfactory to the Public Works Director, and approved as to form by the City Attorney; and (b) authorization from LAFCO to extend the water service to respond to an existing or impending threat to public health or safety.**

**4. The City Council hereby authorizes the Public Works Director to execute an Amendment to Existing Covenants and Agreement Regarding Water Service to 4120 Howard Lane in Napa (APN 036-180-040-000), and to submit an application to LAFCO to authorize the extension of water service in accordance with this resolution.**

**5. This Resolution shall take effect immediately upon its adoption.**

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Napa at a public meeting of said City Council held on the 20<sup>th</sup> day of August, 2013, by the following vote:

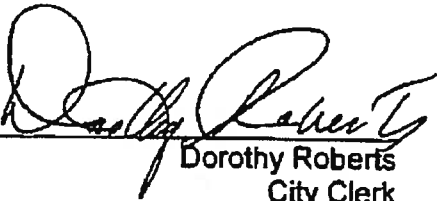
AYES: Sedgley, Pedroza, Mott, Inman, Techel

NOES: None

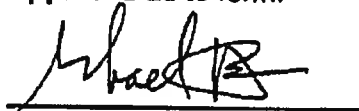
ABSENT: None

ABSTAIN: None

ATTEST:

  
Dorothy Roberts  
City Clerk

Approved as to form:

  
Michael W. Barrett  
City Attorney

CITY OF NAPA  
PUBLIC WORKS DEPARTMENT

ATTACHMENT 2

No. \_\_\_\_\_  
Date \_\_\_\_\_

OUTSIDE WATER SERVICE APPLICATION

A \$100.00 filing fee is required prior to application processing

George Altamura 101 South Combs St. Ste. A 255-1000  
Applicant Mailing Address Telephone  
NA Napa, CA 94559  
Agent for Applicant Mailing Address Telephone

Please extend City of Napa water service to my property:

Property Address: 4120 Howard Lane, 94558

APN: 036-180-040-000

Did parcel exist on December 31, 1982: Yes  No

Existing Use: residential & storage

Proposed Use: " "

No. of Residential Units: 10

Water Service to be Used for: residential

\* Service Size Requested: 2" at present

Existing Well: Yes  No

Other Comments: Existing well water service is unreliable and of poor quality.

\* Joint use with existing 2" water pipe and meter with restaurant use.

George Altamura  
Signature of Applicant or Agent

REVIEW AND DETERMINATION

FINDINGS

In accordance with Policy Resolution No. 7, existing conditions are:

- 1. Property is within the Rural Urban Limit (RUL) Line but not within the incorporated area of the City.
- 2. Property is between RUL Line and the Agricultural Preserve Line, and South of the Agricultural Preserve Line.
- 3. Property is within the Agricultural Preserve Line North of the South Line of the Agricultural Preserve Line.
- Yes  No  4. Water service is for residential purposes. multifamily
- Yes  No  5. Property is contiguous to an existing public right-of-way within which is an existing water main.
- Yes  No  6. Property is contiguous to an existing water main.
- Yes  No  7. Property in existence as of December 31, 1982.

DETERMINATION

- Annexation to the City of Napa will be required prior to receiving water service.
- Water service is approved, subject to execution of an agreement to annex, with limitations indicated below.
- Water service is approved with limitations indicated below.
- Water service is denied. Reason: Property is not contiguous to an existing main or right of way containing a main, usage is multi-family

All approvals expire one (1) year from date of approval. Service order must be signed, and fees and deposits paid prior to expiration. The installation and certification of an approved AWWA backflow prevention device is required prior to the initiation of water service.

Other Conditions of Service: Amendment to Agreement

Reviewed by: \_\_\_\_\_ Document Approved By: \_\_\_\_\_ Date: \_\_\_\_\_  
Public Works Director

4120 Howard Lane Water Service Request Information:

1. Type of service requested is multifamily residential.
2. Use of service will be domestic and irrigation.
3. 10 units to be served
4. Units range in size from 680 square feet to 1,450 square feet.
5. There are multiple structures on the property – an apartment building with 6 attached units, a freestanding 2-story building with upstairs apartment and downstairs storage, and a two-story, two-unit house.
6. Size of service: according to historic and current water use, 2” service shared with restaurant is sufficient.
7. George Altamura will be the responsible party for this water service account.

Phone: 255-1000

Address: George Altamura  
101 S. Coombs St. STE A  
Napa, CA 94559

**KEN JOHNS PLUMBING**

1041 ROBINSON LANE, NAPA, CA. 94558

PHONE 707-252-3582 FAX 707-258-1339

CONTRACTOR LICENSE # 364471

May 14, 2013

Altamura Enterprises  
101 Coombs  
Napa, Ca. 94558

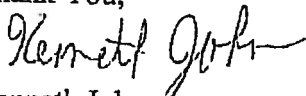
**Re.: WATER METER FOR APN: 036-180-040**

I have been hired to determine if the existing water meter for the above property is sized correctly to supply the existing restaurant and the hook up of the houses on the property. The existing restaurant has a water demand of 44 fixture units which would relate to 30 GPM of domestic water demand. The 9 existing houses will have a total of 86 fixture units which would relate to 45 GPM of domestic water demand. These two added together would equate to 75 GPM of water demand.

There is an existing 2" water supply to a 1 1/2" water meter. The existing water meter will supply a maximum of 120 GPM, if it was raised up to match the water service of 2" it would supply a maximum of 160 GPM.

There is an existing 1 1/2" Reduced pressure backflow valve installed on the 2" water main on the property side of the meter. I feel that this backflow valve should be up sized to a 2". If this is done I feel that the existing 1 1/2" meter with the 2" water service would be sufficient to supply the water demands for this property.

Thank You,

  
Kenneth Johns

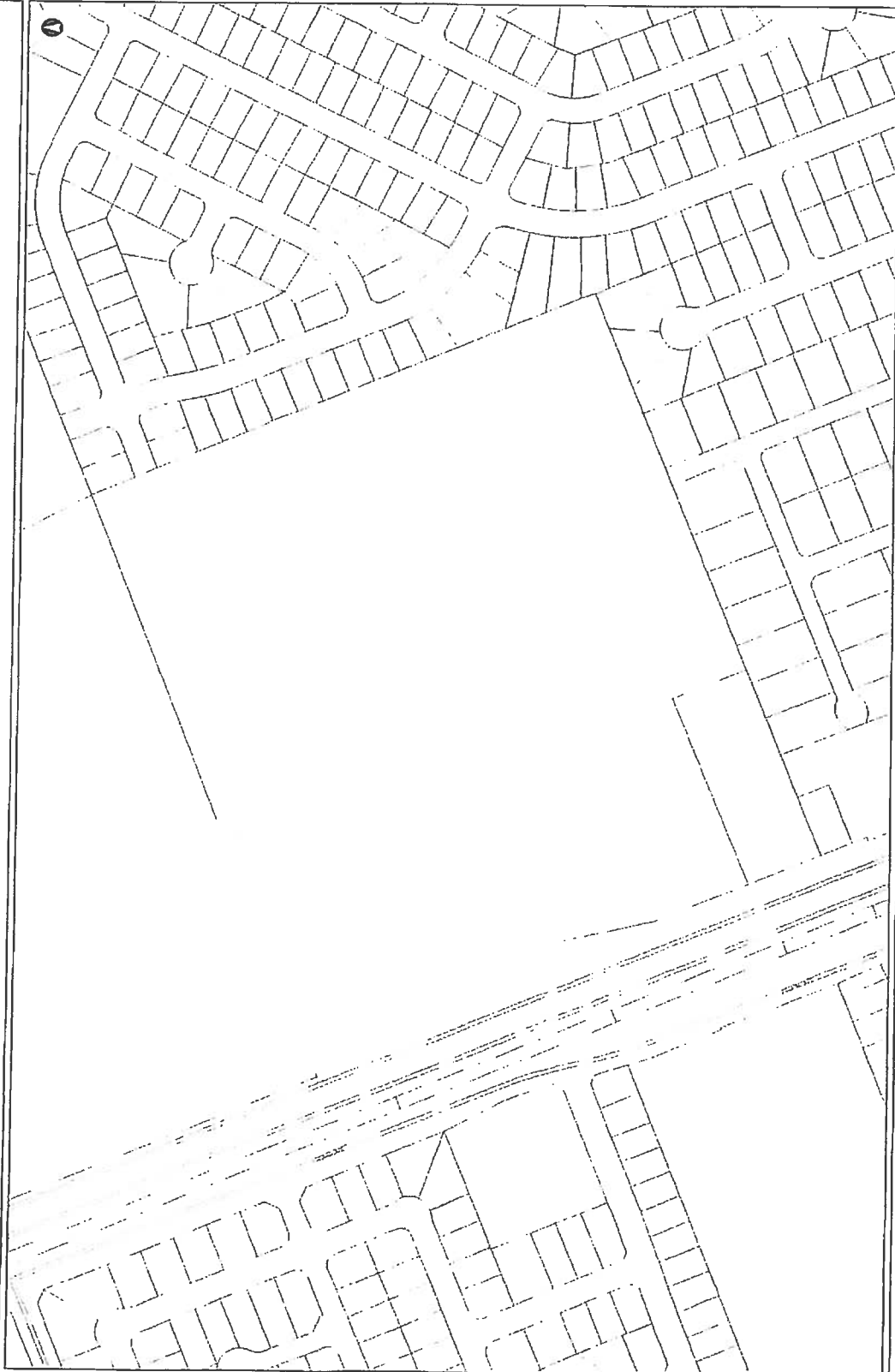




1410 HOWARD LANE

APN: 036-180-040-000

ATTACHMENT 3



Legend  
□ Parcels  
□ County Boundary

573.1



Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.  
This map was printed on 8/7/2013

Notes

On March 2, 1999, the City's voters approved a ballot measure which added a new section to the City of Napa's charter, section 180. Charter Section 180 established the Rural Urban Limit Line, and placed restrictions on the circumstances under which City water can be provided to properties outside of the incorporated area of the City. The text of Charter Section 180 is printed below:

**City of Napa  
Charter, Section 180**

**Rural Urban Limit Line**

**Section 180.**

A. There is hereby established a Rural Urban Limit line, which shall also be referred to as the "RUL." The RUL shall be as set forth and delineated in the 1982 General Plan of the City of Napa, as amended by the City Council prior to March 1999. The RUL shall not be amended or modified, and no urban development shall be permitted in any area outside the RUL except as approved by the City's voters, following approval by the City's Planning Commission and City Council as a General Plan amendment. Notwithstanding the foregoing, the RUL may be changed, modified or amended as a General Plan amendment by four-fifths (4/5) vote of the City Council, without approval by the voters, where necessary to comply with state or federal law, or to allow any community or recreational facilities, parks, public service facilities including, but not limited to, fire and police stations and substations, or similar facilities sponsored or developed by the City of Napa, the Napa Valley Unified School District, or other public educational facilities. No amendment or modification to the RUL, either by voter approval or by four-fifths (4/5) City Council vote, shall be permitted unless the City Council first has determined that such amendment or modification is consistent with the criteria contained in Chapter 9 of the draft General Plan Update, known as *Envision Napa 2020*, approved by the Napa Planning Commission in June 1998.

B. Except as expressly provided herein, no City of Napa water service shall be provided for any area or site outside the RUL. The City of Napa shall provide City water service to all properties within the incorporated area of the City of Napa and may, in its sole discretion, provide City water service for areas or sites outside the RUL and outside the incorporated area of the City of Napa as of March 1999 as follows:

1. To be used for municipal purposes by any other incorporated city or municipality;
2. To be used for community facilities, recreational facilities, parks, public service facilities including, but not limited to, fire and police stations and substations, any similar facilities, as well as any public school facilities sponsored or developed by the City of Napa, the Napa Valley Unified School District or other public educational bodies;
3. If such area or site qualifies for interruptible surplus agricultural water service pursuant to Napa Municipal Code Section 13.04.050 as the same may be amended from time to time;
4. For existing uses which have been provided with City of Napa water prior to the effective date of this charter amendment;
5. As necessary to fulfill any contractual obligation existing prior to the effective date of this charter amendment;
6. For any other uses approved by four-fifths (4/5) vote of the City Council.

(Ratified March 2, 1999)

## POLICY RESOLUTION NO. 7

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA  
 AMENDING CITY COUNCIL POLICY RESOLUTION 7 ESTABLISHING  
 POLICY IN THE MATTER OF WATER SERVICE TO LAND NOT  
 WITHIN THE CITY LIMITS AND AUTHORIZING THE PUBLIC WORKS  
 DIRECTOR TO APPROVE WATER SERVICE APPLICATIONS  
 MEETING THE CONDITIONS SPECIFIED

WHEREAS, the City Council acknowledges that the policy is categorically exempt from CEQA pursuant to Section 15268(b) of the Guidelines, which exempts the approval of individual utility service connections and disconnections; and

WHEREAS, on March 2, 1999 the City's voters approved Measure "A," which added a new Section to the City Charter; and

WHEREAS, Charter Section 180, among other provisions, imposed restrictions on the circumstances under which City water could be provided to properties located outside the incorporated area of the City; and

WHEREAS, Charter Section 180 allowed the City Council to authorize provision of City water not otherwise expressly authorized by Measure A, by 4/5ths vote; and

WHEREAS, the Council finds that provision of water to outside users pursuant to Council Policy Resolution 7 is consistent with the purposes of Section 180, and that the Council's intention in placing Measure A on the ballot was to strengthen, not to abandon, Policy Resolution 7; and

WHEREAS, the Council by 4/5ths vote intends to implement Section 180 in part by granting the Public Works Director blanket authorization to continue to apply Policy Resolution 7.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Napa, State of California that City Council Policy Resolution 7 is hereby amended to read as follows:

1. That policy in the matter of water service to land which is not within the City limits of the City of Napa be and the same is hereby established, and consistent with Napa City Charter Section 180 the Public Works Director shall be and hereby is authorized to approve such water services, as follows:

A. Residential Property Within The Rural Urban Limit ("RUL") Line But Not Within The Incorporated Area Of The City:

For residential property within the Rural Urban Limit Line but not within the City limits, the property shall be required to annex prior to receiving water service, with the understanding that the City makes no commitment, direct or implied, that it will permit development of any kind due to annexation, except for previous commitments and, further excepting as follows: If City Administrative Staff determines that the annexation is legally not feasible or annexation is waived by City Council action, service will be approved, subject to execution of an agreement to annex.

B. Residential Property Between The Rural Urban Limit Line And The Agricultural Preserve Line ("APL") And South Of That Line:

For residential property located between the RUL line and the Agricultural Preserve Line ("APL"), and south of the APL, which such APL shall be as depicted on the map attached hereto as Exhibit A, water service will be approved for residential structures in existence as of December 31, 1982 and for proposed residential structures (limited to one residence per parcel except as provided below) on parcels

in existence as of December 31, 1982; provided, however, that service shall be provided only for qualified parcels that are contiguous to an existing public right-of-way within which there is an existing water main, and further provided that the owner of each qualified parcel executes an agreement to annex, previous commitments excepted. "Water Service will also be approved to a Second Unit on parcels complying with this section on a parcel in existence as of December 31, 1982, if said Second Unit also complies with the County of Napa ordinance relating to Government Code Section 65852.2."

C. Residential Property Within The Agricultural Preserve Line North Of The South Line Of The Agricultural Preserve Line:

For residential property located within the APL, north of the south line of the APL, water service will be approved for residential structures in existence as of December 31, 1982, and proposed residential structures (limited to one residence per parcel except as provided below) on parcels in existence as of December 31, 1982; provided, however, that service shall be provided only for qualified parcels that are contiguous to an existing water main, previous commitments excepted. "Water Service will also be approved to a Second Unit on parcels complying with this section on a parcel in existence as of December 31, 1982 if said Second Unit also complies with the County of Napa ordinance relating to Government Code Section 65852.2."

2. This resolution continues in effect the water policy of the City of Napa of extending the service of water outside City boundaries to residential property only, subject to the provisions of Napa City Charter Section 180.

I HEREBY CERTIFY that the foregoing Resolution was duly and regularly re-adopted by the City Council of the City of Napa at a regular meeting of said City Council on the 6<sup>th</sup> day of July, 1999, by the following roll call vote:

AYES: Sercu, Techel, Busenbark and Henderson

NOES: Martin

ABSENT: None

ATTEST: \_\_\_\_\_  
CITY CLERK OF THE CITY OF NAPA

- Reference:
- Policy Resolution No. 100
  - Policy Resolution No. 129
  - Policy Resolution No. 7 - 7/07/1987
  - Policy Resolution No. 7 - 7/21/1987
  - Policy Resolution No. 7 - 7/06/1989
  - Policy Resolution No. 7 - 4/21/1992

**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.



**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  
 Fax: (707) 251-1053  
 www.napa.lafco.ca.gov

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

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October 21, 2013

Ms. Joy Eldridge, General Manager  
 City of Napa Water Division  
 1340 Clay Street  
 Napa, California 94559

**SUBJECT: Outside Water Service Extension Involving 4120 Howard Lane**

Ms. Eldridge:

The Local Agency Formation Commission (LAFCO) of Napa County is in receipt of the City of Napa's request to approve an emergency outside water service extension between Napa and the landowner of 4120 Howard Lane (036-180-040); an unincorporated property located outside Napa's sphere of influence. As noted in the application materials, the affected territory includes a restaurant currently receiving outside water service from the City of Napa along with six 600 square-foot multi-family residential units, one 1,200 square foot single-family residential unit, and two 1,300 square-foot single-family residential units currently dependent on a groundwater well for their potable water supply. Notably, the City of Napa has determined the groundwater supply from the well is deficient and the drinking water quality is insufficient to continue serving the existing residential units. These factors provide assurances there is an existing threat to public health requiring immediate action.

Consistent with adopted policies, the LAFCO Acting Executive Officer has reviewed the request relative to the following factors and attests to the succeeding statements:

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

Napa's application materials provide reasonable assurances it has sufficient capacities and controls to effectively extend public water service to the affected territory within the short-term without adversely impacting current customers.

- **The application's consistency with the policies and general plans of all affected local agencies.**

The extension of public water service to the affected territory is inconsistent with LAFCO's adopted sphere of influence for Napa, but appears reasonable given its proximity to the City and the existence of a City water service line that already serves the restaurant located on the affected territory.

Joan Bennett, Commissioner  
 Councilmember, City of American Canyon

Greg Pitts, Commissioner  
 Councilmember, City of St. Helena

Juliana Inman, Alternate Commissioner  
 Councilmember, City of Napa

Brad Wagenknecht, 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, Vice Chair  
 Representative of the General Public

Gregory Rodeno, Alternate Commissioner  
 Representative of the General Public

Peter Banning  
 Acting Executive Officer

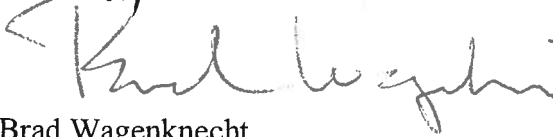
- **The application's effect on growth and development within and adjacent to the affected territory.**

The affected territory comprises a mixed-use lot currently developed with a restaurant, six multi-family residential units, and three single-family residential units. Approval would allow Napa to serve all of these existing units on the property; any new or extended development within the affected territory would require separate approval.

Upon consideration of the preceding factors, and as authorized under LAFCO policies, I hereby authorize the City of Napa to enter into an outside water service agreement with the affected landowner – George Altamura – for purposes of abating the referenced threat to public health and safety. This authorization extends for one calendar year beginning on the date of service commencement and is specific to only serving existing structures at 4120 Howard Lane; any new development or related land use intensification would necessitate a separate LAFCO approval.

If you have any questions, please contact LAFCO Acting Executive Officer Peter Banning at (707) 259-8645 or by e-mail at [PBann@aol.com](mailto:PBann@aol.com).

Sincerely,



Brad Wagenknecht  
Chair

cc: Commissioners  
George Altamura, Landowner  
Larry Florin, County of Napa  
Rick Tooker, City of Napa

**RESOLUTION NO. \_\_\_\_****RESOLUTION OF THE  
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY  
MAKING DETERMINATIONS****RATIFICATION OF AN OUTSIDE WATER SERVICE AGREEMENT APPROVAL FOR  
THE CITY OF NAPA INVOLVING 4120 HOWARD LANE**

**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 City of Napa requesting the approval of a permanent outside water service agreement involving unincorporated territory located at 4120 Howard Lane, identified by the County of Napa Assessor’s Office as 036-180-040, hereinafter referred to as the “proposal”; and

**WHEREAS**, Commission policy allows the Chair to approve an outside service agreement approval to address an urgent public health threat subject to later ratification by the Commission; and

**WHEREAS**, the Chair approved the request on October 21, 2013 given documentation showing the groundwater well serving the affected territory is deficient, creating a public health threat; and

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

**WHEREAS**, the Commission heard and fully considered all the evidence presented on the outside service agreement proposal at a public hearing held on February 3, 2014.

**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 certifies it has considered the determination by the City of Napa, lead agency under CEQA, that 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.” Based on its own independent analysis, the Commission finds the City of Napa has made an adequate determination that the underlying activity is exempt from further review given it mitigates a public health threat. 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 Chair’s approval of the outside service agreement proposal.



The foregoing resolution was duly and regularly adopted by the Commission at a regular meeting held on February 3, 2014, by the following vote:

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

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

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

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

ATTEST: Peter Banning  
Acting Executive Officer

Recorded by: \_\_\_\_\_  
Kathy Mabry  
Commission Secretary