



San Diego County Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

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AGENDA REPORT
Consent | Information

October 7, 2024

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Meghan Traynor, Analyst I

SUBJECT: Notice of Administrative Approval of “Nguyen – Busch Drive Out-of-Agency Wastewater Services” | City of Vista (OAS24-11)

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive notice of an administrative approval by the Executive Officer for the City of Vista to provide out-of-agency services to an unincorporated property located within the City sphere of influence. The authorization is specific to wastewater service to an existing single-family residence at 752 Busch Drive and premised on abating a public health and safety threat given documentation of a failing septic system. The Executive Officer’s approval is limited to the existing primary residential dwelling unit developed on the affected territory as of August 23, 2024. The approval for outside-of-agency services can be administratively extended to the second unit within the affected territory, provided there is written confirmation the County of San Diego – as the current land use authority – has legally permitted the second unit. This notice is being provided for information consistent with adopted policy.

BACKGROUND

Overseeing Out-of-Agency Services

Government Code Section 56133 delegates LAFCOs the responsibility to authorize cities and special districts to provide new or extended services beyond their jurisdictional boundaries. The statute specifies cities and special districts must request and receive formal written

Administration

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Jim Desmond
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John McCann, Alt.
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City of San Diego

Vice Chair Barry Willis
Alpine Fire Protection
Jo MacKenzie
Vista Irrigation
David Drake, Alt.
Rincon del Diablo

Harry Mathis
General Public
Brigitte Browning, Alt.
General Public

approval from LAFCOs to provide “out-of-agency” services by contract or agreement less certain and limited exemptions. The statute further specifies cities and special districts may only be authorized to provide out-of-agency services within their spheres of influence in anticipation of later annexations. If the affected territory lies beyond the subject agencies’ spheres, out-of-agency services may only be authorized in response to documented threats to public health and/or safety as determined by LAFCO.

Delegation to the Executive Officer

San Diego LAFCO’s current policies authorize the Executive Officer to administratively approve outside-of- agency services specific to water or wastewater services in response to documented health, safety, or welfare impacts. The Executive Officer is required to inform the Commission of all administrative approvals at the next available meeting for information only. Otherwise, all out-of-agency approvals require formal Commission action.¹

Applicant Request + Administrative Approval

San Diego LAFCO received a request from the City of Vista on behalf of an interested landowner (Ky Nguyen) in July 2024 for an administrative approval to provide out-of-agency wastewater service to a 0.79-acre unincorporated parcel at 752 Busch Drive (166-450-14). The subject parcel is developed with a 1,300 square-foot single-family residence, which was built in 1945. A second unit has also been built, although the permit status is unclear. The subject parcel lies immediately adjacent to the existing Vista boundary and entirely within the City’s sphere of influence. The request ties to the residence’s existing septic system – which is reportedly pumped routinely to prevent backflow into residence – no longer functioning without continual attention and costs by the landowner.

Upon receipt of the landowner’s request and related application materials, LAFCO staff coordinated with the City of Vista to assess the need and availability of public wastewater service for the affected territory. Staff also confirmed with the County of San Diego’s Department of Environmental Health attesting their recommendation the out-of-agency service proceed to protect against the potential of a public health and safety threat. This recommendation ties to space limitations on the parcel and the unlikely case a new septic system would be able to support the residence based on current standards. The Executive Officer proceeded to issue a conditioned approval on August 23, 2024 specific to the main residence with the ability to apply to the second unit if the County of San Diego confirms its legal (permitted) status. A condition to require a future annexation filing consistent with Commission policy and practice was not applied as detailed in the proceeding section.

¹ These policies also delegate discretion to the Executive Officer in determining whether public health, safety, or welfare threats exists on a case-by-case basis. Reference to Policy L-113.

DISCUSSION

This item is for San Diego LAFCO to receive notice of the Executive Officer’s administrative approval authorizing the City of Vista to provide wastewater service outside its jurisdictional boundary as described above. The Executive Officer’s approval is final under policy, but the Commission is encouraged to discuss the item and provide feedback to staff on any related matters as it collectively deems appropriate.

ANALYSIS

San Diego LAFCO’s administrative approval allowing the City of Vista to provide out-of-agency wastewater services to the subject parcel at 752 Busch Drive conforms to statute and Commission policies. This includes the Executive Officer taking action to proceed with an immediate solution to abate a reasonably documented threat to public health and safety. The administrative approval has been conditioned on limiting wastewater service to only the main residence; service to the second unit is not authorized unless documentation is provided to LAFCO of its legal status by the County of San Diego.

Consideration has also been given – consistent with practice – to require the landowner to file an annexation proposal with LAFCO for future processing in conjunction with expediting the anticipated annexation under statute. Annexations are the preferred method under LAFCO law to use boundary changes to memorialize the relationship between land and service providers unless local conditions suggest otherwise. However, staff believes it is appropriate to proceed without this term given local conditions. This is marked by recognizing the associated actions needed to facilitate an orderly annexation require considerable Vista planning resources – specifically taking ownership and maintenance of a private road – and are unlikely to materialize within the immediate future.²

RECOMMENDATION

This item is presented to San Diego LAFCO for information only.

ALTERNATIVES FOR ACTION

None.

² Local conditions sufficiently justify an out-of-agency service extension as the most responsive means to provide wastewater services to the affected territory given annexation would not be orderly or efficient at this time. Most notably, access to the affected territory from Vista does not currently exist. Access is currently limited to traveling through the unincorporated area via two County roadways – Sunset and Busch Drive – the latter of which is private. Given “cherry-stem annexations” are no longer permissible, annexation of the affected territory without adding other neighboring parcels does not appear practical without causing a boundary to disconnect with respect to accessibility.

PROCEDURES

This item has been placed on the San Diego LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified by the Commission.

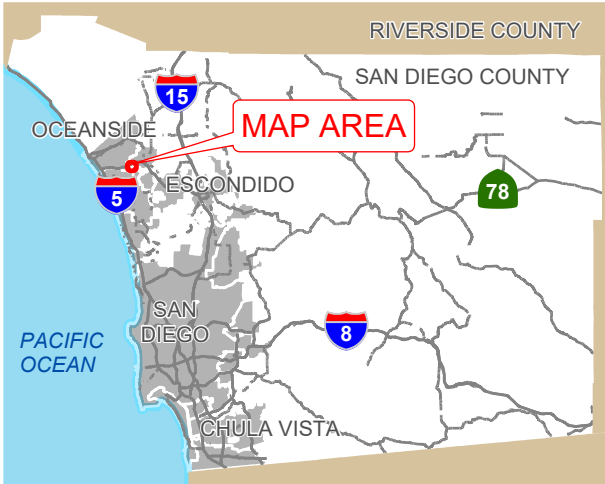
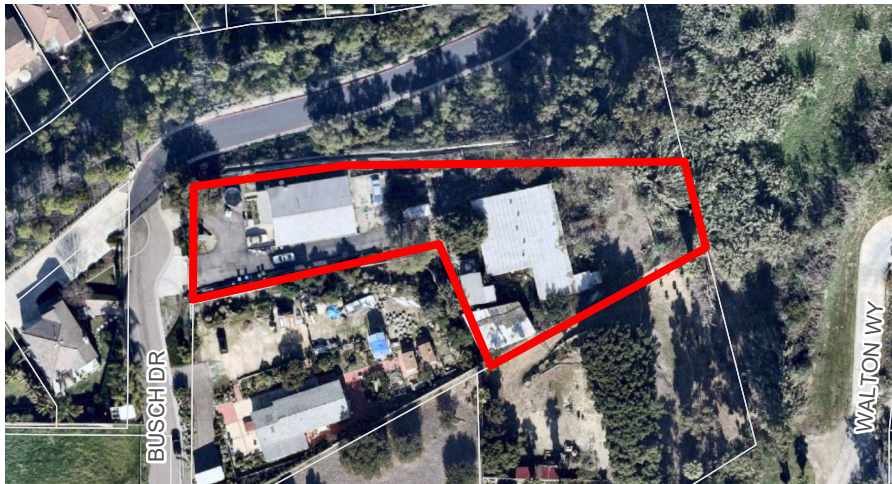
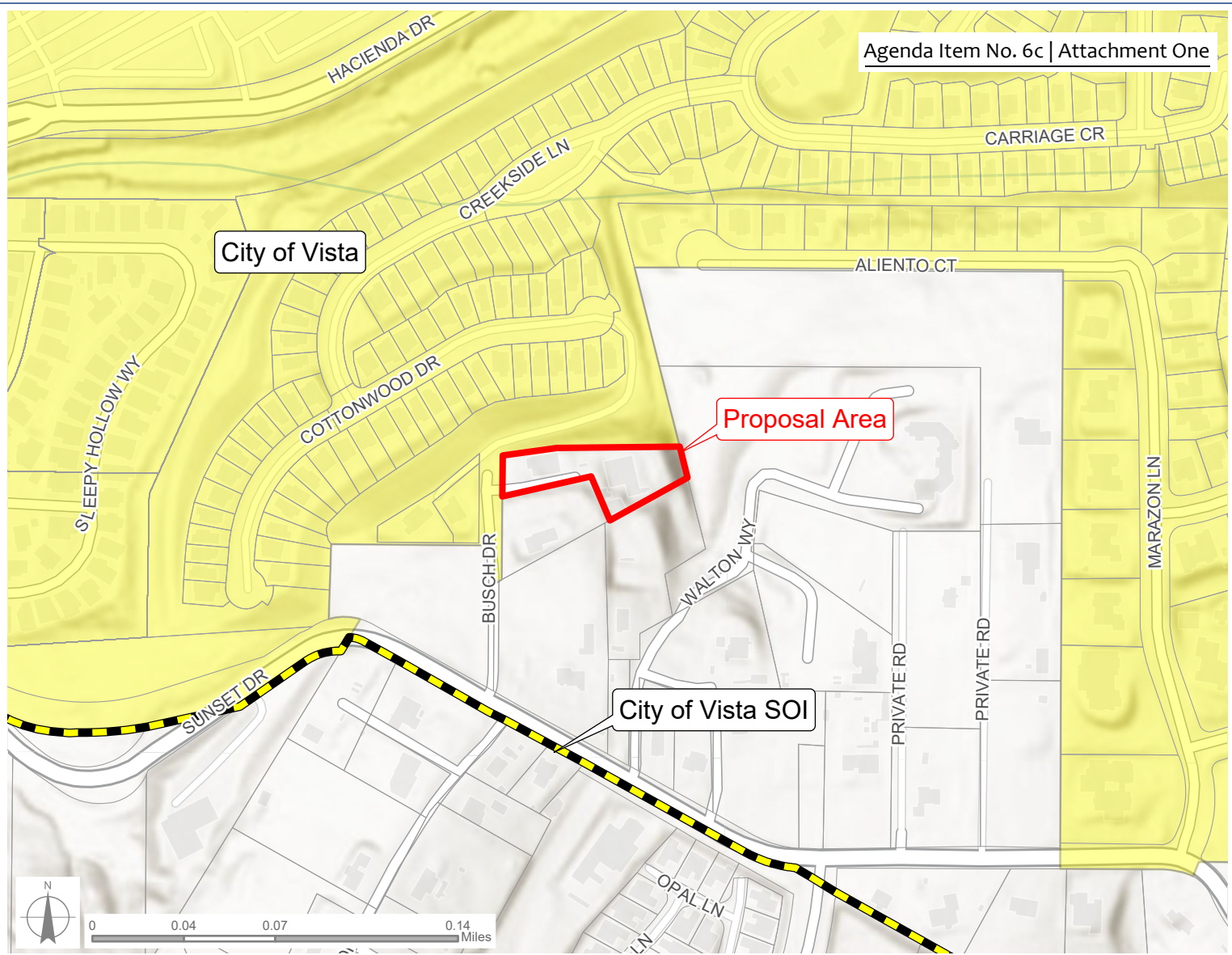
On behalf of the Executive Officer,

A handwritten signature in black ink that reads "Meghan Traynor". The signature is written in a cursive, flowing style.




Meghan Traynor
Analyst I

Attachments:

- 1) Map of the Affected Territory
- 2) Certificate of Administrative Approval
- 3) Related Request Documents



OAS24-11 "NGUYEN - BUSCH DRIVE OUT-OF-AGENCY WASTEWATER SERVICES" | CITY OF VISTA

-  Proposal Area
 -  City of Vista SOI
 -  City of Vista
- SOI = Sphere of Influence



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San Diego County
Local Agency Formation Commission
Regional Service Planning | Subdivision of the State of California

CERTIFICATE OF ADMINISTRATIVE APPROVAL OF A
CONTRACTUAL WASTEWATER SERVICE AGREEMENT

City of Vista / Ky Nguyen
(LAFCO File No. OAS24-11)

August 23, 2024

In accordance with California Government Code Section 56133, the San Diego County Local Agency Formation Commission (LAFCO) authorizes the City of Vista to immediately provide extraterritorial wastewater service by contract to 752 Busch Drive. The subject property is owned by Ky Nguyen and comprises one unincorporated parcel identified by the County of San Diego Assessor's Office as 166-450-14. The authorized service is limited to supporting the approximate 1,300 square foot single-family residence currently developed on the subject property. This authorization does not extend to the second unit developed on the affected territory.

A map of the subject property is attached.

Confirmation:

Handwritten signature of Keene Simonds

KEENE SIMONDS
Executive Officer

August 23, 2024

Table with 6 columns: Administration, Joel Anderson, Kristi Becker, Chair Stephen Whitburn, Vice Chair Barry Willis, Harry Mathis. Includes contact information for various officials and the County of San Diego.

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CONTRACTUAL SERVICE AGREEMENT APPLICATION FORM

In addition to the materials required for any change(s) of organization, submit the following items:

1. One copy of either an approved Resolution of the City Council/District Board of Directors or a letter from the City Manager/District General Manager requesting approval for a contractual service agreement.

2. One copy of the contract or agreement stipulating the terms and conditions of extending service to the property signed by the property owner(s) and the agency that is to provide the service.

3. LAFCO processing fee. Contact the LAFCO office or refer to fee schedule.

Print/Type Name: _____

Property Address: _____

Phone #: _____ Date: _____

This application is used by LAFCO staff to provide supplemental information for contractual service agreement requests.

1. What type or types of public service(s) will be provided? _____

2. Why is the service needed? If the service agreement is in response to an emergency health and safety situation, such as a failed septic system, provide information documenting the circumstances (e.g., letter from the County Department of Environmental Health).

3. If a jurisdictional change, such as annexation, is not possible at this time, explain the circumstances that prevent annexation and when the jurisdictional change is anticipated. _____

4. Are there any jurisdictional issues associated with the YES NO proposed contractual service agreement?
(If yes, please complete the LAFCO [Policy L-107 form](#))

San Diego Local Agency Formation Commission
2550 Fifth Ave., Suite 725
San Diego, CA 92103
(619) 321-3380



July 29, 2024

San Diego County LAFCO
Attn: Keene Simonds
2550 Fifth Avenue, Suite 725
San Diego, California 92103

Re: Out of Area Service Agreement Request – 752 Busch Drive

Dear Mr. Simonds,

The City of Vista is requesting approval from San Diego LAFCO to provide wastewater services to an existing single-family residence at 752 Busch Drive (APN 166-450-14-00) which is outside of the City of Vista municipal boundary. Though the property is located within the city's Sphere of Influence and is contiguous to the city boundary, it is not accessed from a city owned and maintained street. Therefore, annexation into the City of Vista is not supported at this time.

City of Vista public sewer infrastructure is readily available and has adequate capacity to provide service to the property. Due to health and safety concerns associated with the existing failing septic system, the City is amenable to offering out-of-agency sewer service to the property. The agreement will be memorialized with an Out-of-Area Sewer Service Agreement, recorded in the office of the County Recorder.

Pursuant to direction received from your office, a check for \$1,921.50 is included with this request.

I appreciate your consideration in this manner. Please feel free to reach out to me at 760-643-5201 or jconley@ci.vista.ca.us, or Steve Nowak at 760-643-5403 or snowak@ci.vista.ca.us with any questions you may have.

Sincerely,

John Conley
City Manager



County of San Diego

AMY HARBERT
DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY
P.O. BOX 129261, SAN DIEGO, CA 92112-9261
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HEATHER BUONOMO, REHS
DIRECTOR OF ENVIRONMENTAL HEALTH

August 7, 2024

Brett Hodgkiss
General Manager
Vista Irrigation District
1391 Engineer Rd.
Vista, CA 92081

Ky Nguyen
Property Owner
3602 Running Tide Circle
Huntington Beach, CA 92649

Site Address: 752 BUSCH DR., VISTA, CA 92083

APN: 166-450-14-00

Dear Mr. Hodgkiss,

A consultation for the parcel listed above was conducted on 7/24/24 by the San Diego County department of environmental health and quality (DEHQ), to evaluate the feasibility of installing additional septic vs. connecting the residence to the public sewer system.

DEHQ has no records indicating the current size or location of the existing septic system; and the hired professional onsite during the consult suspects that the leach lines are underneath a structure on the property.

The onsite wastewater treatment system (OWTS) has failed, and the current residents are pumping out the system every two-three weeks to prevent backflow into the residence. Most of the parcel is paved over, and space for additional septic is extremely limited and would likely not be able support the existing dwelling based on current standards.

Given that the sewer lateral is approximately ten feet adjacent to the front of the home, and the current septic system has failed; DEHQ requests that parcel be annexed into Vista's wastewater district. Facilitating a sewer connection as soon as possible will minimize possible environmental and public health risks.

Thank you for your time, if you have any questions I can be reached at 619-366-1590, or conner.jordan@sdcounty.ca.gov

Sincerely,

Jordan, Conner Digitally signed by Jordan,
Conner
Date: 2024.08.07 14:58:08 -07'00'

C. Jordan
Environmental Health Specialist II
Dept. of Environmental Health & Quality
P.O. BOX 129261, San Diego, Ca. 92112-9261

Cc: BDP services