

June 23, 2020

Mayor Brandvold & City Council
City of Modesto
P.O. Box 642
Modesto, CA 95353

SUBJECT: City of Modesto's Proposed Urban Limit Line

Mayor Brandvold and City Council:

LAFCO is in receipt of a letter dated June 9, 2020 regarding the City's upcoming consideration of an Urban Limit Line (ULL). Little information has been shared with our agency regarding the proposed ULL. While it appears the City Council will be continuing its discussion to the July 7th meeting, to date, LAFCO has not received the draft language of the ULL, the City's proposed General Plan Amendments, or a California Environmental Quality Act referral for the proposal.

LAFCO respectfully requests that the City Council direct its Staff to initiate the standard land-use planning process for General Plan amendments to accommodate the proposed ULL. This process, as outlined by statute, would include making the draft General Plan amendments and ULL available for a comment period in accordance with Government Code Section 65352(a). This would also allow time for preparation of the required environmental documentation and review. Doing so would provide a more reasonable opportunity for engagement with affected agencies and persons, and the addition of a Planning Commission review and hearing, prior to the City Council's adoption of a ULL and submittal to voters.

The proposed ULL is outside the current LAFCO-adopted sphere of influence for the area. In anticipation of an application to expand the sphere of influence to match or effectuate the ULL, LAFCO expects the land-use planning process to first be completed. While the letter we received is limited in its information about the proposed ULL, LAFCO Staff has prepared the following comments for the City's information in anticipation of such an application.

General Plan Consistency

As presented, areas of the proposed ULL located south of the unincorporated community of Salida and along North McHenry are outside of the City's General Plan area. Inclusion of these areas necessitates a General Plan amendment. Internal consistency amongst the various elements of the General Plan must also be ensured. As identified above, Government Code Section 65352(a) requires that prior to the City amending its General Plan it shall refer the proposed action to numerous agencies, including LAFCO, with a minimum 45-day comment period.

Compliance with the California Environmental Quality Act (CEQA)

City Staff has indicated that they have drafted a finding of conformance with the Master Environmental Impact Report (EIR) previously prepared for the City's General Plan. The proposed ULL includes areas beyond the planning area of the General Plan and is thus outside the scope of the Master EIR, as these areas and their associated impacts have not been analyzed.

Adoption of the ULL, amendments to the General Plan, and subsequent request for a sphere of influence expansion are all considered projects under CEQA that must be fully described and analyzed. As a Responsible Agency, LAFCO will rely on the City's preparation of environmental documentation during its review of the sphere of influence.

Relation to LAFCO Policies and Processes

While the City's letter describes its ULL as the City's self-imposed limit on growth, it currently represents an expanded area *beyond* the City's LAFCO-adopted sphere of influence. Therefore, LAFCO approval would be required to make the two consistent.

LAFCOs have the exclusive authority for designating a sphere of influence for a city. A sphere of influence is defined by Government Code Section 56076 as a "plan for the probable physical boundaries and service area of a local agency, as determined by the commission." Stanislaus LAFCO has established policies that further describe the intent of a sphere of influence. These include promoting orderly growth and coordination of cooperative planning efforts among the county, cities, special districts, and communities. The sphere of influence is intended to be a twenty-year planning boundary for an agency. The Commission also designates a more near-term boundary known as a "primary area" within the sphere of influence of each city. Any subsequent annexation proposal must be consistent with these Commission-adopted boundaries.

When determining a sphere of influence for a city, LAFCO will consider its locally-adopted policies in conjunction with the factors set forth in Government Code Section 56425(e), including the present and planned land uses in the area, the impact to agricultural lands and the existence of any social or economic communities of interest in the area. The City must also demonstrate how the proposal represents a logical expansion of its boundary that discourages urban sprawl.

There are two communities of interest that the City's proposed ULL, and presumably its proposed sphere of influence, would encroach upon—Salida and Wood Colony. Each of these communities should be discussed relative to LAFCO's adopted policy that states, "sphere of influence boundaries shall, to the extent possible, maintain a separation between existing communities to protect open space and agricultural lands and the identity of an individual community."

An expansion of the City's sphere of influence also requires City of Modesto representatives to meet with County representatives to discuss the proposed sphere and explore methods to reach agreement on its boundaries, development standards, and zoning requirements within the sphere *prior* to application to LAFCO (Government Code Section 56425b). Additionally, an update to the City's Municipal Service Review must be prepared prior to or concurrently with the sphere of influence expansion describing the city's ability to provide services as well as impacts to existing service providers in the area, including the Salida Fire Protection District.

Agricultural Resources

One of LAFCO's main charges, as set forth by the Legislature, is to protect and promote agriculture. LAFCO's Agricultural Preservation Policy encourages cities to develop methods or strategies to minimize the loss of agricultural lands. The Commission encourages cities to choose from a menu of commonly-used strategies in the Policy, including voter-approved urban growth boundaries. The Policy requires cities to complete an analysis in order for the Commission to make determinations including that insufficient alternative land is available within the current sphere of influence, that growth has been directed away from prime agricultural lands, and that the additional territory will not exceed the twenty-year period of probable growth and development.

The proposed ULL also includes lands with active Williamson Act contracts. The Williamson Act is considered a mechanism to preserve agricultural land in the long term. LAFCO policies for sphere of influence amendments and annexations both discourage the inclusion of Williamson Act lands within proposed boundaries.

Additional Comments and Information Needed

Staff notes the following additional comments and information that would be helpful to include in future referrals regarding the project:

- The timeframe for the ULL was not specified in the letter provided to LAFCO and it is unclear whether it is intended to be consistent with the City's sphere of influence and/or Urban Growth Review.
- The intent of the open portion of the proposed ULL in the northeast Modesto area should be made clear.
- Please identify the "narrow legal exceptions" as referenced in the June 9th letter regarding exceptions for areas to be annexed outside an Urban Limit Line.
- Statements in the June 9th letter and the "What an Urban Limit Line Means" handout regarding making areas "easier to be annexed" do not identify required LAFCO steps and processes.
- The "Conceptual Urban Limit Line" map appears to inadvertently exclude the Mancini Park area (already within the City Limits) from the ULL and General Plan boundary.

LAFCO Staff appreciates the opportunity to comment on the City's proposal. If you have any questions, please contact our office at (209) 525-7660.

Sincerely,



Sara Lytle-Pinhey
Executive Officer

cc: LAFCO Commissioners
Alice E. Mimms, LAFCO Counsel
Stephanie Lopez, Modesto City Clerk