

July 13, 2020

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

Subject: Urban Limit Line 2040 Ballot Measure

Mayor Brandvold and City Council:

On June 23, 2020, Stanislaus LAFCO provided a letter outlining concerns regarding the City's proposed Urban Limit Line (ULL). Since that date, the City has held three workshops and provided a staff report for the upcoming July 14, 2020 City Council meeting. In addition, I met with City staff from the Community and Economic Development Department last week to discuss the proposal, although still in draft form. Final drafts of the proposal's environmental documentation, measure language and General Plan amendments were not made available for public review until July 10, 2020.

The purpose of this letter is to inform you that Stanislaus LAFCO remains concerned regarding the ULL proposal. Concerns include consistency with State law, LAFCO policies, General Plan policies, as well as the sufficiency of the City's environmental documentation. Deferring these issues could significantly delay any future application to LAFCO.

Overall Consistency with the Cortese-Knox-Hertzberg Act and LAFCO Policies

The brief timeframe for review of the proposal's documentation has eliminated the opportunity for meaningful dialogue regarding policy issues, technical issues, logical boundaries, and potential alternatives to the proposal. There are many sections of the proposed measure and associated General Plan amendments that are inconsistent with the Cortese-Knox-Hertzberg Act and LAFCO Policies. These are potentially problematic if included in the final language of a voter-approved initiative.

For example, the proposed ballot question contains a phrase stating that the measure "would prohibit the City from annexing properties..." The inclusion of this phrase in the ballot question is misleading to the reader as it does not represent an actual restriction to the City. LAFCO has the exclusive authority to approve city annexations. The ballot question is misleading because the City's authority is limited to approving a resolution of application to LAFCO for such a boundary change. Annexation applications can nevertheless be made by petition of landowners or voters directly to the Commission.

Proposed General Plan Policy 3.F.2.1 states, "the Sphere of Influence maintained by the city should be contiguous with the ULL..." It is unclear what is meant by the phrase, "maintained by the city" in this policy. LAFCO retains decision-making authority regarding establishment and modification of the City's Sphere of Influence.

Proposed General Plan Policy 3.F.2.1 further states that the City may propose land outside the ULL be included within a sphere of influence if the land is for non-urban uses such as open space or conservation easements. This directly contradicts LAFCO's sphere of influence policies that state territory not in need of urban services and not planned for orderly growth, such as open space and conservation easements, should *not* be included in a sphere of influence. Similar to the intent of the proposed ULL, the sphere of influence is meant to represent a long-term growth boundary.

Consistency with LAFCO Policies 21 and 22

The City's staff report for the proposed ULL includes a Bay Area Economics (BAE) Study providing an inventory of vacant and underutilized lands within the current City limits and Sphere of Influence, as well as an analysis of residential, commercial and industrial demands through 2040. This study is of interest as LAFCO Policy 21 encourages cities to seek development opportunities within existing boundaries prior to further annexations. Similarly, LAFCO Policy 22 (Agricultural Preservation Policy), requires cities to conduct vacant land inventories in order to determine that insufficient alternative land is available when submitting a proposal to annex lands or add additional territory to its Sphere of Influence.

Portions of the BAE study appear to underestimate the City's current capacity. For example, Table 29 of the study identifies only 144 acres of developable land within the much larger Tivoli Specific Plan area and assumes no commercial growth in the plan area. Despite this, the overall findings of the study demonstrate that the City has a sufficient amount of developable land for residential, retail, office and industrial uses through 2040 within its current city limits and Sphere of Influence. Notably, Table 30 of the study identifies development capacity of areas outside the City limits but within the City's Sphere of Influence area, not including the additional Urban Limit Line acreage. As it relates to the proposed ULL (beyond the Sphere of Influence), the study merely notes that the larger boundary would not *hinder* the City's ability to develop properties through 2040. The study also recommends, consistent with LAFCO policies, that the City continue to evaluate development potential within its existing underutilized and vacant lands, as well as the downtown area--although development potential in the downtown area was not included in the study.

Compliance with the California Environmental Quality Act (CEQA)

Following review of the environmental documentation included with the staff report for the proposal, it is clear that the ULL represents a land use policy signaling the intent for City growth outside the current City General Plan and Sphere of Influence. While the ULL is described as a limitation on where the City may grow, the project description in the Initial Study states that areas of the proposed ULL that are *outside* the General Plan are intended to add "properties that have significant development potential."

Generally speaking, urban limit lines are meant to be a self-imposed restriction on growth. However, the current proposal goes beyond the City's current General Plan and Sphere of Influence. The proposed ULL may have significant growth-inducing impacts that are not within the scope of the City's General Plan Master Environmental Impact Report and should be studied pursuant to CEQA. Likewise, the newly identified acreage of the ULL that is intended to enhance the City's economic development has not been previously analyzed for potentially significant impacts to agricultural resources, traffic and circulation, public services, etc. Designating these areas for potential growth is inconsistent with land use policies and General Plans of both the City and County.

In conclusion, as stated in the June 23, 2020 Stanislaus LAFCO letter, it is respectfully requested that the City Council direct its staff to initiate a General Plan Update and appropriate environmental review to study the planned growth in the proposed ULL. If you have any questions, please contact our office at (209) 525-7660.

Sincerely,



Sara Lytle-Pinhéy
Executive Officer

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