

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY

DEPT: Planning and Community Development BOARD AGENDA #: 6:40 p.m.

AGENDA DATE: October 17, 2017

SUBJECT:

Public Hearing to Consider the Planning Commission's Recommendation of Approval of Ordinance Amendment Application No. PLN2017-0055 – Small Livestock Farming, an Update to the Stanislaus County Zoning Ordinance, Covering the Entire Stanislaus County Unincorporated Area

BOARD ACTION AS FOLLOWS:

No. 2017-577

On motion of Supervisor Withrow, Seconded by Supervisor Monteith
and approved by the following vote,

Ayes: Supervisors: Olsen, Withrow, Monteith, DeMartini, and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None


1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION: INTRODUCED, WAIVED THE READING, AND ADOPTED ORDINANCE C.S. 1202

ATTEST: 
ELIZABETH A. KING, Clerk of the Board of Supervisors

File No. **ORD-56-A-6**

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Planning and Community Development BOARD AGENDA #: 6:40 p.m.
Urgent Routine AGENDA DATE: October 17, 2017

AF

CEO CONCURRENCE: 4/5 Vote Required: Yes No

SUBJECT:

Public Hearing to Consider the Planning Commission's Recommendation of Approval of Ordinance Amendment Application No. PLN2017-0055 – Small Livestock Farming, an Update to the Stanislaus County Zoning Ordinance, Covering the Entire Stanislaus County Unincorporated Area

PLANNING COMMISSION AND STAFF RECOMMENDATIONS:

1. Conduct a public hearing to consider the Planning Commission's recommendation of approval of Ordinance Amendment Application No. PLN2017-0055 – Small Livestock Farming, an update to the Stanislaus County Zoning Ordinance, covering the entire Stanislaus County unincorporated area.
2. Find the project is generally exempt for the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) and order the filing of a Notice of Exemption with the Stanislaus County Clerk-Recorder pursuant to CEQA Guidelines Section 15062.
3. Find that there is no substantial evidence the project will have a significant effect on the environment and that the general exemption reflects Stanislaus County's independent judgement and analysis.
4. Find the project is consistent with the overall goals and policies of the Stanislaus County General Plan.
5. Approve Ordinance Amendment Application No. PLN2017-0055 – Small Livestock Farming as recommended by the Planning Commission with the exclusion of the amendment to Section 21.24.080(D) adding "pens, coops, cages, or similar housing used" and the exclusion of the language "except for commercial dairy, poultry, or hog operations" as added to Section 21.80.020.
6. Introduce, waive the reading, and adopt the ordinance amending Title 21 of the Stanislaus County Code relating to Small Livestock Farming.

DISCUSSION:

Stanislaus County proposes the following amendments to Chapters 21.12 – Definitions, 21.24 Rural Residential (R-A) Zoning District, and 21.80 - Nonconforming Uses of the Stanislaus County Zoning Ordinance – Title 21:

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- Section 21.12.530: The definition of “Small Livestock Farming” is amended to clarify the total number of fowl, animals, and beehives allowed; and to clarify that no small domestic animals with the potential to cause a nuisance shall be permitted under the definition.
- Section 21.24.020(B): The exclusion of turkeys is deleted for consistency with the definition of Small Livestock Farming, which allows for the raising and keeping of turkeys.
- Section 21.24.080(D): The yard and building provisions for the keeping of livestock and poultry is amended to include pens, coops, cages, or similar housing used for keeping livestock or poultry; and to clarify that the setback requirement from any public street is measured from edge of pavement; and to delete the setback requirement from any window or door of any building used for human occupancy.
- Section 21.80.020(A)(1): This section is amended to clarify that, with the exception of commercial dairy, poultry, or hog operations, the keeping of animals in quantities greater than permitted by Title 21 shall not be subject to continuation as a nonconforming use.

This ordinance amendment is proposed in response to numerous nuisance complaints, received by both the Planning Department and by the Department of Environmental Resources, Code Enforcement Division, which have centered on the number of animals permitted under the Small Livestock Farming definition, specifically roosters. The proposed ordinance amendments reflect new language to provide further clarity and internal consistency. The definition, Section 21.12.530 of the Stanislaus County Zoning Ordinance, currently reads as follows:

“Small livestock farming” means the raising or keeping of more than twelve chicken hens, turkeys or twelve pigeons (other than defined in Section 21.12.500) or twelve similar fowl or twelve rabbits or twelve similar animals, or four permanent standard beehives, *or any* [emphasis added] roosters, quacking ducks, geese, guinea fowl, peafowl, goats, sheep, worms or similar livestock provided that the term “small livestock farming” as used in this title shall not include hog farming, dairying or the raising or keeping for commercial purposes of horses, mules or similar livestock as determined by the board of supervisors. The keeping of animals in quantities less than described above is permitted in any district.

The Small Livestock Farming definition has remained unchanged since it was introduced into the Stanislaus County Zoning Ordinance in 1951. In recent years, there has been inconsistent interpretations of the words “*or any*” (line 4, following “standard beehives”) among County departments, which has led to difficulty in enforcing nuisance complaints regarding the keeping of these animals, specifically roosters on residentially zoned property.

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The words “*or any*” have been historically interpreted by the Planning Department to prohibit animals listed after this specific wording, “...roosters, quacking ducks, geese, guinea fowl, peafowl, goats, sheep, worms or similar livestock.” Outside of the Planning Department, interpretations of the words “*or any*” has ranged from permitting none of the listed animals to allowing an unlimited number of roosters, quacking ducks, geese, guinea fowl, peafowl, goats, sheep, worms or similar livestock in any zoning district. As a result, these zoning provisions are being amended to clearly identify the animals that are not permitted under the Small Livestock Farming definition. Furthermore, the words “a combined total of” are proposed to be added to the definition of Small Livestock Farming to clarify that small livestock farming is limited to a total of twelve animals, not twelve animals per type. Clarifying the allowed number of animals under this definition will allow both residents and County departments to have certainty when determining which animals are allowed in the respective zoning districts.

Amendments to Chapter 21.24 R-A are proposed to provide consistency with the Small Livestock Farming definition and to clarify regulations regarding enclosures, and setback issues. Turkeys are permitted under the Small Livestock Farming definition, but excluded in the R-A zoning district. To clean up this contradictory language, the words “and turkeys” has been deleted from Section 21.24.020(B) – Permitted Uses of the R-A zoning district. New language is also proposed to Section 21.24.080(D) - Yards of the R-A zoning district to include a range of housing options used for the keeping of animals and to provide clarification on how to measure minimum setback requirements.

Finally, language is proposed to be added to Section 21.80.020 – Continuation of Nonconforming Uses under the Zoning Ordinance to clarify that the keeping of animals in quantities greater than permitted by the County's Zoning Ordinance, with the exception of certain commercial operations, are not considered a nonconforming use that will not be allowed to continue. To ease the transition of enforcement of this section, the ordinance being recommended for adoption includes a six month grace period prior to any enforcement action related to this code change.

A full discussion of the proposed ordinance amendment is provided in Attachment 2 – Planning Commission Memo, September 7, 2017. Exhibit B of the Planning Commission Memo provides a summary of the proposed amendments with additions reflected in bold and underlined text and proposed deletions reflected in strike-out text.

On September 7, 2017, the Planning Commission held a public hearing to consider the proposed ordinance amendment. During the public hearing, four people spoke in opposition and four people spoke in favor of the proposed ordinance amendment.

Those who spoke in opposition to the ordinance raised concerns regarding the new limitations being placed on roosters; the ordinance being unconstitutional and infringing on property rights; the enforcement process being “unfair” due to it being a non-judicial process; and that the proposed setback requirements would classify as a “taking” of property. There was also concern raised with the allowance for the Planning Director to determine which small animals have the potential to be a nuisance.

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Those who spoke in favor of the ordinance included residents of a rural residential neighborhood west of the City of Modesto that was the location of an illegal rooster fighting bust by law enforcement in 2016. The speakers described living near properties with 100 plus roosters and having over 500 roosters in the surrounding area. Speakers cited issues with rooster noise, expressed safety concerns associated with illegal rooster fighting activity occurring in the neighborhood, and concern for the inhumane treatment of roosters.

In response to staff's presentation and public comments made during the public hearing, the Planning Commission asked questions relating to the following: clarification regarding the nuisance concerns with worms; impact to programs like 4H and FFA; and how other counties with similar ordinances have avoided litigation in restricting small livestock animals. Staff responded by explaining that the nuisance concern with worms is associated with the potential for odor from the organic material they may be fed for composting; and that the ordinance as proposed does not provide any exception for 4H and FFA programs. The proposed ordinance only provides clarification regarding certain types of animals which may not be kept, such as roosters, and does not apply any new restrictions on the keeping of other animals typically associated with 4H and FFA programs (such as chicken hens, rabbits, cows, sheep, goats, or horses).

In response to the question regarding other counties, staff provided information regarding San Joaquin and Merced Counties as outlined on page 4 of the Planning Commission Memo (see Attachment 2). In response to the Planning Commission question, Mr. Harless (who spoke in opposition to the item during the Planning Commission public hearing) indicated that his group has sued other counties for their adoption of, what he referred to as, similar ordinances. Those other Counties referenced were Solano and Monterey. Both Counties adopted ordinances aimed at eliminating illegal cockfighting and the raising of birds to be used for cockfighting that applied to their respective agricultural zones.

In development of this ordinance amendment, broader "Rooster Regulations" aimed at deterring illegal cockfighting were drafted. Those regulations were modeled after an ordinance adopted by San Diego County and would have applied to all zoning districts, including the A-2 zoning district. After hearing concerns raised by several poultry breeders and conducting further analysis of the rooster complaints received by the County, the focus of the ordinance was shifted to address land use compatibility issues. A discussion of the consideration of a broader rooster regulation is provided on pages 4-5 of the Planning Commission Memo (see Attachment 2).

Following the close of the public hearing, Commissioner Borges, noting approximately 54 persons in the audience (including some staff), requested to conduct a poll of the audience members asking for a show of hands in response to the following questions:

- ***How many in the audience are in opposition to the ordinance?*** It was noted that the majority of those in the audience indicated opposition to the ordinance.
- ***How many in the audience are in support of the ordinance?*** It was noted that there was a minority show of hands in support of the ordinance.

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- ***How many in the audience live in Stanislaus County in the A-2 zoning district?*** As a result of some comments from the audience, the question was clarified to reflect a show of hands for those living on farms of more than one acre in size. It was noted that the majority of those in the audience indicated living on farms of more than one acre in size.
- ***How many in the audience live in an unincorporated community?*** It was noted that four people in the audience indicated living in an unincorporated community.
- ***How many in the audience live in a city?*** It was noted that six people in the audience indicated living in a city.
- ***How many in the audience raise small livestock for FFA or 4H?*** It was noted that 10 people in the audience indicated raising small livestock for FFA and 4H.

Commissioner Borges also asked if there was anyone in attendance who raised roosters for cockfighting, however, it was pointed out that a response to that question was unlikely due to the illegal nature of the activity. The Commission Chairman noted that, based on the responses provided, the majority of those in the audience would not be impacted by the proposed ordinance. The Chairman noted that the ordinance already exists and that the action being taken is to clarify ambiguous language. Commissioner Borges expressed the need for limits on roosters in urban areas with parcels of less than one acre; like the community of Salida which has a lot of rooster complaints.

By a vote of 7-0, the Planning Commission recommended approval of the proposed ordinance amendment to the Board of Supervisors as recommended by staff.

The following is an overview of correspondence received by the County following the Planning Commission's public hearing:

- Letter dated September 12, 2017, from One of Many Concerned Residents, letter dated September 15, 2017, from Robert & Diana Eaton, and letter dated September 17, 2017, from Restless Homeowners (see Attachment 4 a-c) - These letters are in support of the ordinance amendment; citing issues with noise associated with roosters; questioning the need for property owners to keep large numbers of roosters and the impact the keeping of roosters has on the quality of life of surrounding neighbors; expressing concern with crime resulting from illegal rooster fighting activities and the conditions in which roosters are kept. The letters have been provided by long-time residents (34 plus years) of a rural residential neighborhood west of the City of Modesto.
- Letter dated September 26, 2017, and E-Mail dated October 6, 2017, from John F. Harless, President, California Association of Preservation of Gamefowl (see Attachment 4 d-e) – Mr. Harless is in opposition to the proposed ordinance and raises concerns with the Planning Commission's consideration of the ordinance and, in general, the need and legal authority for such an ordinance to be considered by the County. The following is a summary of the

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comments and staff's responses to the zoning and right to farm concerns being raised by Mr. Harless:

- ***What is the valid nature of the rooster complaints presented to the Planning Commission and how does that number compare to all nuisance related complaints received by the County during the same time period?*** Pages 4-5 of the Planning Commission Memo provide an overview of the rooster related complaints received by the County from January 1, 2014, to June 22, 2017. The purpose for compiling the complaint information was to show that the issue is concentrated in the residential zoning districts and not the A-2 (General Agriculture) zoning district. Based on the complaint information, the proposed ordinance was focused on addressing the keeping of roosters in residential zoning districts as opposed to addressing the keeping of roosters in the A-2 zoning district.
- ***Why is the County not utilizing its Right to Farm Ordinance (Chapter 9.32 – Agricultural Land Policy of the Stanislaus County Code) to handle complaints?*** The County's Right to Farm Ordinance is applicable to agricultural activity, operations, or facility, or appurtenances thereof, conducted or maintained on *agricultural lands* for commercial purposes, and in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations in the same locality. "Agricultural lands" for purposes of the Right to Farm Ordinance include only real property within the A-2 zoning district. The focus of the proposed ordinance is on the keeping of animals within residential zoning districts, which are offered no protection to nuisance complaints under the County's Right to Farm Ordinance. With the exception of lands within the A-2 zoning district with an Urban Transition (UT) General Plan designation (hereafter referred to as "A-2 UT"), there is no limit on the number of animals, including roosters, which may be kept. A more detailed overview of A-2 UT is provided later in this report.
- ***Does the proposed ordinance affect only property of less than one acre?*** No. Regardless of property size, the proposed ordinance clarifies that the keeping, in any quantity, of roosters, quacking duck, geese, guinea fowl, peafowl, and worms (except for personal use) shall not be allowed in any residential zoning district or on any A-2 UT zoned parcel.
- ***Why restrict the placement of pens, coops, cages, hutches, or similar structures for keeping livestock or poultry, a distance greater than required for a permanent building in the R-A zoning district?*** The R-A zoning district already has setback requirement of not less than 50-feet from any public street nor less than 40-feet from any window or door of any building used for human occupancy or any adjacent property for any buildings for keeping livestock or poultry. The proposed ordinance amendment applies these same setback standards to other structures used for the keeping of livestock or poultry; clarifies the point of measurement from the public street; and removes the setback requirement from any window or door of any building used for human occupancy (including those on-site).

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As reflected in the Planning Commission and Staff Recommendations of this report, staff is recommending that the Board of Supervisors adopt the proposed ordinance with the exclusion of the amendment to Section 21.24.080(D) adding the words "pens, coops, cages, or similar housing used" to the yard requirements of the R-A zoning district. If the language is amended as proposed, a smaller parcel within the R-A zoning district permitted to maintain 12 or fewer chickens may not be able to meet the setback requirements for placement of a pens, coops, or cages to house the permitted chickens. This type of restriction was not the intent of the proposed ordinance.

- ***Why give the Planning Director "dictatorial power" to revoke property rights based on his/her belief that something has the potential to become nuisance?*** The added provision does not impact those types of animals where the number permitted or prohibited to be kept is already clearly defined. The added provision addresses only those unspecified small domestic animals that may have the potential to cause a nuisance. While the Planning Director is being given the authority to make the determination, the determination is subject to appeal and must be sufficiently supported to withstand review by the Nuisance Abatement Hearing Board and the Board of Supervisors in accordance the County's adopted policies for addressing zoning complaints. It would be impractical to try to specifically capture every single type of animal within the ordinance and, as such, this provides the County with a needed tool to address issues with animals that are unforeseen at this time.
- ***Stanislaus County's Noise Element provides acceptable noise levels for the different land use categories. Agriculture has the most lenient acceptable noise levels stated in hard numbers. If these levels aren't exceeded then how could it be deemed a nuisance?*** Figure IV-2: Normally Accepted Community Noise Environments of the County's General Plan Noise Element reflects that agriculture (along with industrial, manufacturing, and utilities) have a higher normally accepted community noise environment than residential land uses. The figure is intended to illustrate the range of noise levels which will allow for a full range of activities normally associated with a given land use and does not establish the standard for determining a nuisance. Local jurisdictions have the authority to establish limitations on specific activities which may be detrimental to the public health, welfare, and safety, and are contrary to public interest through stricter standards than those established for a general purpose.

Planning staff has reviewed and considered all public comments (both oral and written) that have been received in response to this proposed ordinance amendment and all Planning Commission comments. Staff's response is summarized below:

The proposed ordinance amendment deals with the definition of Small Livestock Farming that was established in 1951 and over the years has been woven into the County's various zoning districts as a baseline for establishing the quantity of certain animals permitted to be kept in any zoning district. As such, what is basically a simple ordinance amendment intended to

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provide clarification based on historical interpretation, has been interpreted by some to have a broader reach. The following overview, in addition to Attachment 5 – Chart of Permitted Number of Small Livestock – Residential and Agricultural Zoning Districts, is provided in an effort to simplify the proposed ordinance amendment:

- The A-2 zoning district is comprised of 18,465 parcels. Of these parcels, 1,719 parcels, approximately 9%, have an Urban Transition (UT) designation. The proposed ordinance amendment only applies to A-2 UT zoned parcels, which are subject to the same regulations as the R-A zoning district, which are discussed below. Except in the A-2 UT, the proposed ordinance amendment has no impact on the number of animals which may be maintained on an A-2 zoned parcel, regardless of parcel size. The maps provided in Attachment 6 a-b illustrate the location of all A-2 and A-2 UT zoned parcels. The A-2 zoning district retains the provision allowing for the Planning Director to authorize additional animals to be maintained in the A-2 UT than those allowed in the R-A zoning district.
- On R-A (and A-2 UT) zoned parcels of one acre or more in size, the proposed ordinance amendment has no impact on the current unlimited number of chicken hens, pigeons, rabbits, or permanent standard beehives that may be kept. The proposed ordinance deletes an exclusion of turkeys from the R-A zoning district to allow for turkeys, with no limitation, consistent with the Small Livestock Farming definition.
- On R-A (and A-2 UT) zoned parcels of less than one acre in size and all other residential zoning districts, the proposed ordinance amendment maintains the current limitation on the number of chicken hens, turkeys, pigeons, rabbits, or permanent standard beehives that may be kept.
- On A-2 UT and all residentially zoned parcels (R-A, R-1, R-2, and R-3), regardless of size, the proposed ordinance amendment:
 - Clarifies that the keeping, in any quantity, of roosters, quacking ducks, geese, guinea fowl, peafowl, and worms (except for personal use) shall not be allowed.
 - In addition to those animals specifically listed as not allowed, the ordinance amendment clarifies the reference to “or similar livestock” that may also not be allowed to specify “or any other small domestic animal determined by the Planning Director to have the potential to cause a nuisance.” As discussed earlier, this allowance does not apply to those animal types that are already specifically identified as being permitted with, or without, limitation.

The clarification being provided by this ordinance amendment to prohibit certain types of animals known to have nuisance characteristics, such as roosters, is consistent with the County's historical interpretation. Without this clarification inconsistency in interpretation could allow for a situation such as an 8,000 square foot residential parcel in the community of Denair, Empire, Keyes, or Salida being restricted to the keeping of 12 or fewer chicken hens or rabbits while being allowed an unlimited number of roosters. Staff does not believe that the

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intent of the “or any” language in the current definition of Small Livestock Farming was to allow for an unlimited number of roosters while placing a restriction on other types of animals.

Because of the inconsistency in interpretation that has occurred in recent years, the Planning Commission has supported staff's recommendation for a six month grace period for enforcement of the proposed ordinance, as reflected in Attachment 1, Section 5. The grace period allows those who own animals subject to the ordinance reasonable time to comply. Section 21.80.020(A)(1) has been added to clarify that the keeping of animals in quantities greater than permitted by the County's Zoning Ordinance is not considered a nonconforming use (sometimes referred to as “grandfathered” use) that will be allowed to continue.

As reflected in the Planning Commission and Staff Recommendations of this report, staff is recommending that the Board of Supervisors adopt the amendment to Section 21.80.020(A) with the exclusion of the language “except for commercial dairy, poultry, or hog operations.” Staff is making this recommendation to avoid confusion with the use of the term “commercial,” which is not defined.

POLICY ISSUE:

In order to consider an amendment to the Zoning Ordinance, the Board of Supervisors must hold a public hearing. The proposed Ordinance Amendment provides clarity on the permitting of Small Livestock Farming throughout the unincorporated County.

FISCAL IMPACT:

Costs associated with processing this ordinance amendment: setting the public hearing, publishing required notices, and conducting the hearing, will be covered by the Planning and Community Development General Fund budget.

BOARD OF SUPERVISORS' PRIORITY:

The recommended actions are consistent with the Board's priorities of A Safe Community, A Healthy Community, and A Strong Agricultural Economy/Heritage by providing clarity on where Small Livestock Farming is permitted throughout the unincorporated County.

STAFFING IMPACT:

Planning and Community Development staff is responsible for preparing all reports associated with this request and there are no staffing impacts associated with this item.

CONTACT PERSON:

Angela Freitas, Planning and Community Development Director Telephone: (209) 525-6330

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ATTACHMENTS:

1. Ordinance Amendment to the Stanislaus County Zoning Ordinance Chapters 21.12 – Definitions, 21.24 – Rural Residential District (R-A), and 21.80 – Nonconforming Uses
2. Planning Commission Memo, September 7, 2017 (With all attachments)
3. Planning Commission Minutes, September 7, 2017 (Excerpt)
4. Correspondence
 - a. Letter Dated September 12, 2017, from One of Many Concerned Resident
 - b. Letter Dated September 15, 2017, from Robert and Diana Eaton
 - c. Letter Dated September 17, 2017, from Restless Homeowners
 - d. Letter Dated September 26, 2017, from John F. Harless, President, CA Association for the Preservation of Gamefowl
 - e. E-Mail Dated October 6, 2017, from John F. Harless, President, CA Association for the Preservation of Gamefowl
5. Permitted Number of Small Livestock – Residential and Agricultural Zoning Districts Chart
6. Maps
 - a. All A-2 zoned parcels
 - b. All A-2 zoned parcels with an Urban Transition designation (Referenced on the maps as “A-2 UT Zoned Parcels”)

Attachment 1

ORDINANCE NO. C.S.

**AN ORDINANCE AMENDING TITLE 21 OF THE STANISLAUS COUNTY CODE
RELATING TO KEEPING OF ANIMALS REGULATED BY
SMALL LIVESTOCK FARMING**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA ORDAINS AS FOLLOWS:

Section 1. Section 21.12.530, of the Stanislaus County Code is amended to read as follows:

“21.12.530 SMALL LIVESTOCK FARMING

“Small livestock farming” means the raising or keeping of more than a combined total of twelve chicken hens, turkeys or twelve pigeons (other than defined in Section 21.12.500) or twelve similar fowl or twelve rabbits or twelve similar animals, or four permanent standard beehives. “Small livestock farming” as used in this title shall not allow for the keeping, in any quantity, of roosters, quacking duck, geese, guinea fowl, peafowl, worms (except for personal use), or any other small domestic animal determined by the Planning Director to have the potential to cause a nuisance. The keeping of animals in quantities less than described above is permitted in any district.”

Section 2. Section 21.24.020, Subdivision B, of the Stanislaus County Code is amended to read as follows:

“B. Small livestock farming, on parcels of one acre or more, but excluding hogs;”

Section 3. Section 21.24.080, Subdivision D, of the Stanislaus County Code is amended to read as follows:

“D. Buildings for Keeping Livestock or Poultry. Not less than fifty feet from any public street, measured from edge of pavement, nor less than forty feet from any adjacent property. (Ord. CS 663 §40, 1998; Ord. CS 106 §3, 1984).”

Section 4. Subparagraph (A)(1), of the Stanislaus County Code is added to Section 21.80.020 to read as follows:

“A. A lawful nonconforming use may be continued; provided, that no such use shall be enlarged or increased, nor be extended to occupy a greater area than that occupied by such use prior to the date the use became nonconforming, and that if any such use is abandoned, the subsequent use shall be in conformity to the regulations specified by this title for the district in which the land is located.

1. The keeping of animals in quantities greater than permitted by this title shall not be subject to continuation."

Section 5. Enforcement of this ordinance shall not commence until six (6) months following its effective date, November 16, 2017, to allow those who, as of the date of enactment, own animals subject to this ordinance reasonable time to comply. Additional time to comply not exceeding six (6) months may be granted by Planning Commission upon application and a showing of good cause why additional time is required.

Upon motion of Supervisor _____, seconded by Supervisor _____, the foregoing Ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 17th day of October, 2017, by the following-called vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Vito Chiesa, Chairman
of the Board of Supervisors of the
County of Stanislaus, State of California

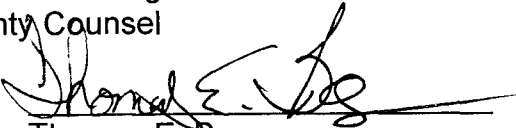
ATTEST:

ELIZABETH A. KING, Clerk of the
Board of Supervisors of the County of Stanislaus,
State of California

By _____
Pam Villarreal, Deputy Clerk

APPROVED AS TO FORM:

John P. Doering
County Counsel

By 
Thomas E. Boze
Assistant County Counsel

Attachment 2



Date September 7, 2017

MEMO TO: Stanislaus County Planning Commission

FROM: Department of Planning and Community Development

SUBJECT: ORDINANCE AMENDMENT PLN2017-0055 – SMALL LIVESTOCK FARMING

RECOMMENDATION

Based on the discussion below and on the whole of the record, Staff is requesting that the Planning Commission provide a recommendation of approval to the Board of Supervisors of Ordinance Amendment Application No. PLN2017-0055 – Small Livestock Farming, as presented in this staff memo. If the Planning Commission decides to provide a recommendation of approval, Exhibit A provides an overview of all of the findings required for project approval.

PROJECT DESCRIPTION

The Planning Department is proposing the following amendments to Title 21: Chapter 21.12 – Definitions; Chapter 21.24 Rural Residential (R-A) Zoning District; and Chapter 21.80 – Nonconforming Uses of Stanislaus County Zoning Ordinance:

- Section 21.12.530: The definition of “Small Livestock Farming” is amended to clarify the total number of fowl, animals, and beehives allowed; and to clarify that no small domestic animals with the potential to cause a nuisance shall be permitted under the definition.
- Section 21.24.020(B): The exclusion of turkeys is deleted for consistency with the definition of Small Livestock Farming, which allows for the raising and keeping of turkeys.
- Section 21.24.080(D): The yard and building provisions for the keeping of livestock and poultry is amended to include pens, coops, cages, or similar housing used for keeping livestock or poultry; and to clarify that the setback requirement from any public street is measured from edge of pavement; and to delete the setback requirement from any window or door of any building used for human occupancy.
- Section 21.80.020(A)(1): This section is amended to clarify that, with the exception of commercial dairy, poultry, or hog operations, the keeping of animals in quantities greater than permitted by Title 21 shall not be subject to continuation as a nonconforming use.

A summary of the proposed amendments to the Zoning Ordinance is attached as Exhibit B. Specific amendments consisting of additions are reflected in bold and underlined text and proposed deletions are reflected in strike-out text.

PROJECT LOCATION

The proposed Ordinance Amendments will apply Countywide, with the exception of areas within the incorporated cities. The proposed changes apply to the zoning districts where Small Livestock Farming is permitted, including the R-A (Rural Residential) zoning district, and the A-2 (General Agriculture) zoning district when combined with a General Plan designation of Urban Transition. The keeping of animals in quantities less than those identified in the definition of Small Livestock Farming are permitted in all zoning districts. Accordingly, the proposed revisions to the Small Livestock Farming definition also apply to all zoning districts (residential, commercial, and industrial) throughout unincorporated Stanislaus County.

BACKGROUND

This ordinance amendment is proposed in response to numerous nuisance complaints, received by both the Planning Department and by the Department of Environmental Resources, Code Enforcement Division, which have centered on the number of animals permitted under the Small Livestock Farming definition, specifically roosters. The proposed ordinance amendments reflect new language to provide further clarity and internal consistency. The definition, Section 21.12.530 of the Stanislaus County Zoning Ordinance, currently reads as follows:

“Small livestock farming” means the raising or keeping of more than twelve chicken hens, turkeys or twelve pigeons (other than defined in Section 21.12.500) or twelve similar fowl or twelve rabbits or twelve similar animals, or four permanent standard beehives, *or any* [emphasis added] roosters, quacking ducks, geese, guinea fowl, peafowl, goats, sheep, worms or similar livestock provided that the term “small livestock farming” as used in this title shall not include hog farming, dairying or the raising or keeping for commercial purposes of horses, mules or similar livestock as determined by the board of supervisors. The keeping of animals in quantities less than described above is permitted in any district.”

The Small Livestock Farming definition has remained unchanged since it was introduced into the Stanislaus County Zoning Ordinance in 1951. In recent years, there has been inconsistent interpretations of the words “*or any*” (line 4, following “standard beehives”) among County departments, which has led to difficulty in enforcing nuisance complaints regarding the keeping of these animals, specifically rooster on residentially zoned property.

The words “*or any*” have been historically interpreted by the Planning Department to prohibit animals listed after this specific wording, “...roosters, quacking ducks, geese, guinea fowl, peafowl, goats, sheep, worms or similar livestock”. Outside of the Planning Department, interpretations of the words “*or any*” has ranged from permitting none of the listed animals to allowing an unlimited number of roosters, quacking ducks, geese, guinea fowl, peafowl, goats, sheep, worms or similar livestock in any zoning district. As a result, these zoning provisions are being amended to clearly identify the animals that are not permitted under the Small Livestock Farming definition. Furthermore, the words “a combined total of” are proposed to be added to the definition of Small Livestock Farming to clarify that small livestock farming is limited to a total

of twelve animals, not twelve animals per type. Clarifying the allowed number of animals under this definition will allow both residents and County departments to have certainty when determining which animals are allowed in the respective zoning districts.

Amendments to Chapter 21.24 R-A are proposed to provide consistency with the Small Livestock Farming definition and to clarify regulations regarding enclosures, and setback issues. Turkeys are permitted under the Small Livestock Farming definition, but excluded in the R-A zoning district. To clean up this contradictory language, the words “and turkeys” has been deleted from Section 21.24.020(B) – Permitted Uses of the R-A zoning district. New language is also proposed to Section 21.24.080(D) - Yards of the R-A zoning district to include a range of housing options used for the keeping of animals and to provide clarification on how to measure minimum setback requirements.

Finally, language is proposed to be added to Section 21.80.020 – Continuation of Nonconforming Uses under the Zoning Ordinance to clarify that the keeping of animals in quantities greater than permitted by the County’s Zoning Ordinance, with the exception of certain commercial operations, are not considered a nonconforming use that will not be allowed to continue. To ease the transition of enforcement of this section, a recommendation is included with this report that will allow a six month grace period prior to any enforcement action related to this code change.

DISCUSSION

Small Livestock Farming is permitted when a parcel is one acre or more in size and is located within either the R-A (Rural Residential) zoning district, or the A-2 (General Agriculture) zoning district when combined with a General Plan designation of Urban Transition.

The purpose of the County’s Urban Transition General Plan designation is to ensure that land remains in agricultural use until urban development consistent with a city’s general plan designation is approved. Limiting these properties to the regulations of the R-A zoning district (i.e. Small Livestock Farming) is intended to maintain agricultural uses while minimizing conflicts with surrounding properties. The Urban Transition designation was established in 1973, with the designation placed on property outside the city limits but within the city’s general plan boundary. With the adoption of Spheres Of Influence (SOI) in 1984, the practice of re-designating land to Urban Transition has not continued as city general plan boundaries and SOI’s have changed.

In Stanislaus County there presently are a total of 2,601 A-2 zoned parcels located within city SOIs. Of these total parcels, 995 parcels are zoned A-2, have a General Plan designation of Urban Transition, and are subject to the R-A zoning district provisions. The remaining parcels (1,606) are zoned A-2 have a General Plan designation of Agriculture.

There are a total of 4,058 parcels zoned R-A. The following is a breakdown of the R-A zoned parcels based on SOI location and parcel size:

- Located **inside** a SOI and 1 acre or more in size: 146
- Located **inside** a SOI and less than 1 acre in size: 1,178
- Located outside a SOI and 1 acre or more in size: 694
- Located outside a SOI and less than 1 acre in size: 2,040

Exhibit C - R-A (Rural Residential) Zoning District Maps consists of maps of all parcels zoned R-A, including the boundaries of the respective city SOI's. While Small Livestock Farming is permitted only on R-A zoned parcels of one acre or more in size, the keeping of animals in quantities less than those identified by definition applies to all residentially zoned parcels throughout unincorporated Stanislaus County.

As part of the process of developing this ordinance amendment, Planning staff compared the County's existing regulations to surrounding city and county policies regarding the keeping of animals in residential zoning districts. The comparison to the policies of cities within Stanislaus County is provided in Exhibit D - *City and County Comparison of Permitted Number of Small Livestock - Residential Zoning Districts*. A comparison of the residential rooster policies in the surrounding counties of Fresno, Kern, Madera, Merced, Tulare, Tuolumne, San Joaquin, and Sacramento was also conducted; however, the results showed broad variations in local land use administration. The following is an overview of San Joaquin and Merced counties, two agricultural counties which adjoin Stanislaus County:

- San Joaquin – The permitted number of roosters in both residential and agricultural zoning districts is based on the following three types of uses:
 - Educational animal projects – number allowed ranges from one rooster on 1/3rd of an acre to three roosters on 3-5 acres, to no limit on over five acres.
 - Family food production – number allowed ranges from one rooster on 1/3rd of an acre to up to three roosters on over three acres.
 - Poultry ranch – No limit to roosters as long as the property is over ten acres.
- Merced – The permitted number of roosters in both the residential and agricultural zoning districts is limited to two roosters maximum. The keeping of additional roosters in the agricultural zones is subject to Confined Animal Facility (CAF) requirements and exceptions may be made for FFA, 4H, and other educational poultry projects.

In the development of the proposed ordinance amendment, several meetings were held with various County departments, community members, and poultry breeders. The proposed ordinance amendment was presented to the General Plan Update Committee (GPUC) on July 6, 2017. Members of the GPUC were supportive of the proposed changes to the ordinance and requested that a grace period be provided before enforcement actions are taken on any property not complying with the regulations; specifically, the amendment to Section 21.80.020(A)(1) addressing the continuation of nonconforming uses.

The proposed ordinance amendment, as shared at the various meetings and presented to the GPUC, originally included the addition of a new chapter to the County Code titled "Rooster Regulations". The purpose of the Rooster Regulations was to limit the number of roosters that may be kept on any premise as a means to deter illegal cockfighting. The Rooster Regulations would have been applicable to all zoning districts, including the A-2 zoning district, and would have excluded only commercial poultry ranchers, and members of a local chapter of the 4-H or Future Farmers of America (FFA) provided certain factors were met. Several poultry breeders raised concerns with the impact a rooster regulation would have on their ability to non-commercially continue to raise and breed poultry. In response to concerns raised by non-commercial poultry breeders, further analysis was conducted of the rooster complaints received by the County in order to determine how best to proceed with the ordinance amendment.

From January 1, 2014 to June 22, 2017, Stanislaus County received a total of 157 rooster related complaints (41 in 2014, 47 in 2015, 45 in 2016, and 24, year to date, in 2017). Of the

total complaints received 45% cited noise concerns, 6% cited illegal fighting, and 3% cited odor, 38% cited a variety of miscellaneous concerns (including roosters out of cages, too many cages, and mistreatment), and no specific concerns were cited for the remaining 8% of the complaints. Of the total 157 complaints, 103 were unduplicated, meaning they did not involve the same property. The numbers of unduplicated complaints by zoning districts are as follow:

- A-2 (General Agriculture) 7%
- R-A (Rural Residential) 16%
- R-1/2/3 (Single-Family/Medium Density/Multiple Family Residential) 67%
- Cities 10%

While 7% of the complaints involve parcels within the A-2 zoning district there is no means of verifying the roosters being kept were associated with cockfighting and State laws already prohibit cockfighting regardless of local zoning. Consequently, upon further analysis, the focus of this ordinance amendment was shifted to address land use compatibility issues. Staff's recommendation to the GPUC was to proceed without the new rooster regulations and to focus on clarifying the County's historic interpretation regarding the keeping of animals in residential zoning districts. Specifically, to clarify through amendments to the Small Livestock Farming definition that no roosters may be maintained on any residential zoned property regardless of parcel size.

Correspondence

The following two comments have been received in response to the proposed ordinance amendment (See Exhibit E - *Correspondence Received*.):

1. Letter from Bridget Riddle, dated August 3, 2017. The comment letter requests a change to the limit on roosters to no more than 100, and a change to the setback from the edge of property and public-street to 20-feet each. Ms. Riddle has identified herself as a member of the American Poultry Association, North American Leghorn Club, American Game Fowl Association; and secretary of both the Pacific Poultry Breeders Association and Gold Rush Fowl Association.
2. Letter from John Harless, President of the CA Association for the Preservation of Gamefowl, received via e-mail on August 18, 2017. The letter outlines various existing codes and ordinances in existence to address nuisance conditions in an effort to highlight that the County already has the tools needed to address nuisance complaints.

Staff does not consider the proposed ordinance to be adding new limitations on the keeping of animals, but rather a clarification of historical interpretation.

GENERAL PLAN AND ZONING CONSISTENCY

All amendments to the Zoning Ordinance must be consistent with the General Plan. Several goals and policies within the Land Use, Noise, and the Agricultural Elements of the General Plan are evaluated below in terms of consistency with the proposed ordinance amendments.

The Land Use Element's Goal 2, to ensure compatibility between land uses, is directly related to the proposed ordinance amendment by allowing small livestock farming activities only in the zoning districts where the least amount of conflicts with surrounding properties are likely to occur.

The ordinance amendment is also consistent with Goal 5 of the Land Use Element, to complement the general plans of cities within the County, as the development of the ordinance included research and verification that the proposed amendments are as consistent as possible with the policies of the cities within the County and the surrounding counties of Stanislaus. The proposed ordinance amendment continues to complement the general plans of cities within the County by including A-2 zoned properties with a General Plan designation of Urban Transition, which includes land designated by cities for potential future growth, in the Small Livestock Farming regulations.

The Noise Element aims to limit the exposure of the community to excessive noise levels. Specifically Goal 2, Policies 2 and 3 are consistent with the proposed ordinance amendments which protect the citizens of Stanislaus County from the harmful effects of exposure to excessive noise both by requiring setbacks for animals and by limiting where they are permitted.

Staff believes this amendment request is consistent with the General Plan, as described above. The proposed ordinance amendments will clarify existing land use regulations as it applies to small livestock farming in all zoning designations. Without the proposed ordinance amendment, the definition of Small Livestock Farming may be interpreted as having no limits on the number of roosters, or other potential nuisance type animals, in any zoning district regardless of parcel size.

ENVIRONMENTAL REVIEW

This project has been determined to be generally exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the California Code of Regulations. A CEQA Exempt Referral and Notice of Public Hearing were circulated to all interested parties and responsible agencies for review and comment. (See Exhibit G- *Distribution List for CEQA Exempt Referral and Notice of Public Hearing.*) A Notice of Exemption has been prepared for approval as the project will not have a significant effect on the environment. (See Exhibit F – *Notice of Exemption.*) There are no conditions of approval for this project.

Contact Person: Denzel Henderson, Assistant Planner, (209) 525-6330

Attachments:

- Exhibit A - Findings and Actions Required for Project Approval
- Exhibit B - Summary of Draft Amendments to Stanislaus County Zoning Ordinance Chapters 21.12 – Definitions, 21.24 – Rural Residential District (R-A), and 21.80 – Nonconforming Uses
- Exhibit C- R-A (Rural Residential) Zoning District Maps
- Exhibit D - City and County Comparison of Permitted Number of Small Livestock - Residential Zoning Districts
- Exhibit E- Correspondence Received
- Exhibit F - Notice of Exemption
- Exhibit G - Distribution List for CEQA Exempt Referral & Notice of Public Hearing

Exhibit A
Findings and Actions Required for Project Approval

Note: The proposed project must obtain approval from the Stanislaus County Board of Supervisors. Should the Planning Commission want to recommend approval of this project, the Planning Commission may recommend the following:

1. Conduct a public hearing to consider the Planning Commission's recommendation for approval of Ordinance Amendment Application No. PLN2017-0055 – Small Livestock Farming, an update to the Stanislaus County Zoning Ordinance, covering the entire Stanislaus County unincorporated area.
2. Find the project is generally exempt for the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the California Code of Regulations and order the filing of a Notice of Exemption with the Stanislaus County Clerk-Recorder pursuant to CEQA Guidelines Section 15062.
3. Find that there is no substantial evidence the project will have a significant effect on the environment and that the General Exemption reflects Stanislaus County's independent judgment and analysis.
4. Find the project is consistent with the overall goals and policies of the Stanislaus County General Plan.
5. Approve Ordinance Amendment Application No. 2017-0055 – Small Livestock Farming and adopt the revised ordinances.
6. Introduce, waive the reading, and adopt the ordinance amending Title 21 of the Stanislaus County Code relating to Small Livestock Farming.
7. Recommend that a six month grace period be provided, after the date the ordinance becomes effective, for enforcement of Section 21.80.020(A)(1).

Small Livestock Farming – Proposed Ordinance Amendment

Amend Section 21.12.530 of Chapter 21.12 – Definitions to read as follows:

21.12.530 Small livestock farming.

“Small livestock farming” means the raising or keeping of more than **a combined total of** twelve chicken hens, turkeys or twelve pigeons (other than defined in Section 21.12.500) or twelve similar fowl or twelve rabbits or twelve similar animals, or four permanent standard beehives ~~or any roosters, quacking ducks, geese, guinea fowl, peafowl, goats, sheep, worms or similar livestock provided that the term “small livestock farming” as used in this title shall not include hog farming, dairying or the raising or keeping for commercial purposes of horses, mules or similar livestock as determined by the board of supervisors.~~ **“Small livestock farming” as used in this title shall not allow for the keeping, in any quantity, of roosters, quacking duck, geese, guinea fowl, peafowl, worms (except for personal use), or any other small domestic animal determined by the Planning Director to have the potential to cause a nuisance.** The keeping of animals in quantities less than described above is permitted in any district.

Amend Section 21.24.020– Permitted Uses of the R-A Zoning District to read as follow:

- B. Small livestock farming, on parcels of one acre or more, but excluding hogs ~~and turkeys~~;

Amend Section 21.24.080(D) – Yards of the R-A Zoning District to read as follows:

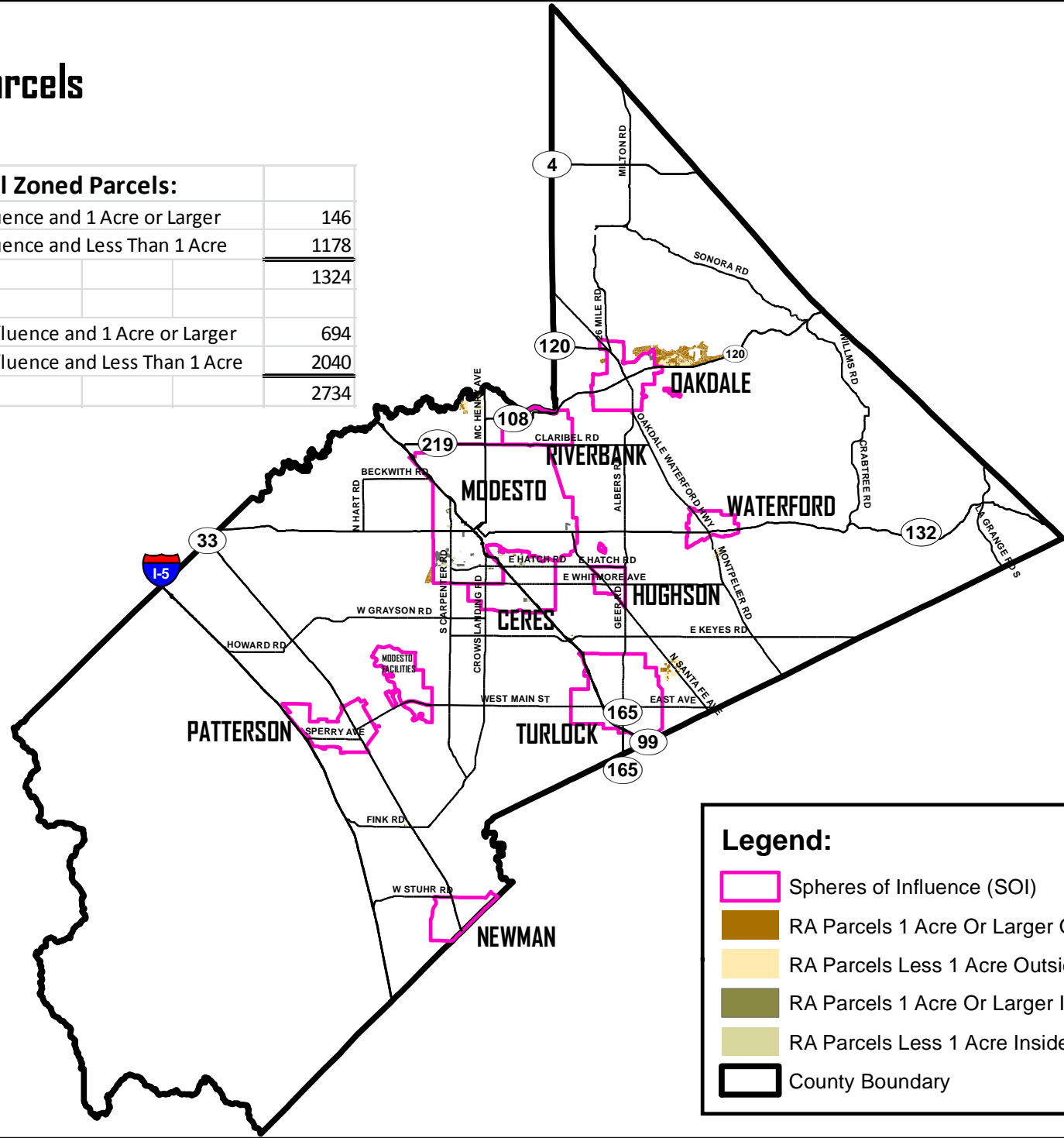
- D. Buildings, **pens, coops, cages, or similar housing used** for Keeping Livestock or Poultry. Not less than fifty feet from any public street, **measured from edge of pavement,** nor less than forty feet from ~~any window or door of any building used for human occupancy or~~ any adjacent property

Amend Section 21.80.020 – Continuation of the Nonconforming Chapter to read as follows:

- A. A lawful nonconforming use may be continued; provided, that no such use shall be enlarged or increased, nor be extended to occupy a greater area than that occupied by such use prior to the date the use became nonconforming, and that if any such use is abandoned, the subsequent use shall be in conformity to the regulations specified by this title for the district in which the land is located.
- 1. The keeping of animals in quantities greater than permitted by this title shall not be subject to continuation, except for commercial dairy, poultry, or hog operations.**

RA Zoned Parcels

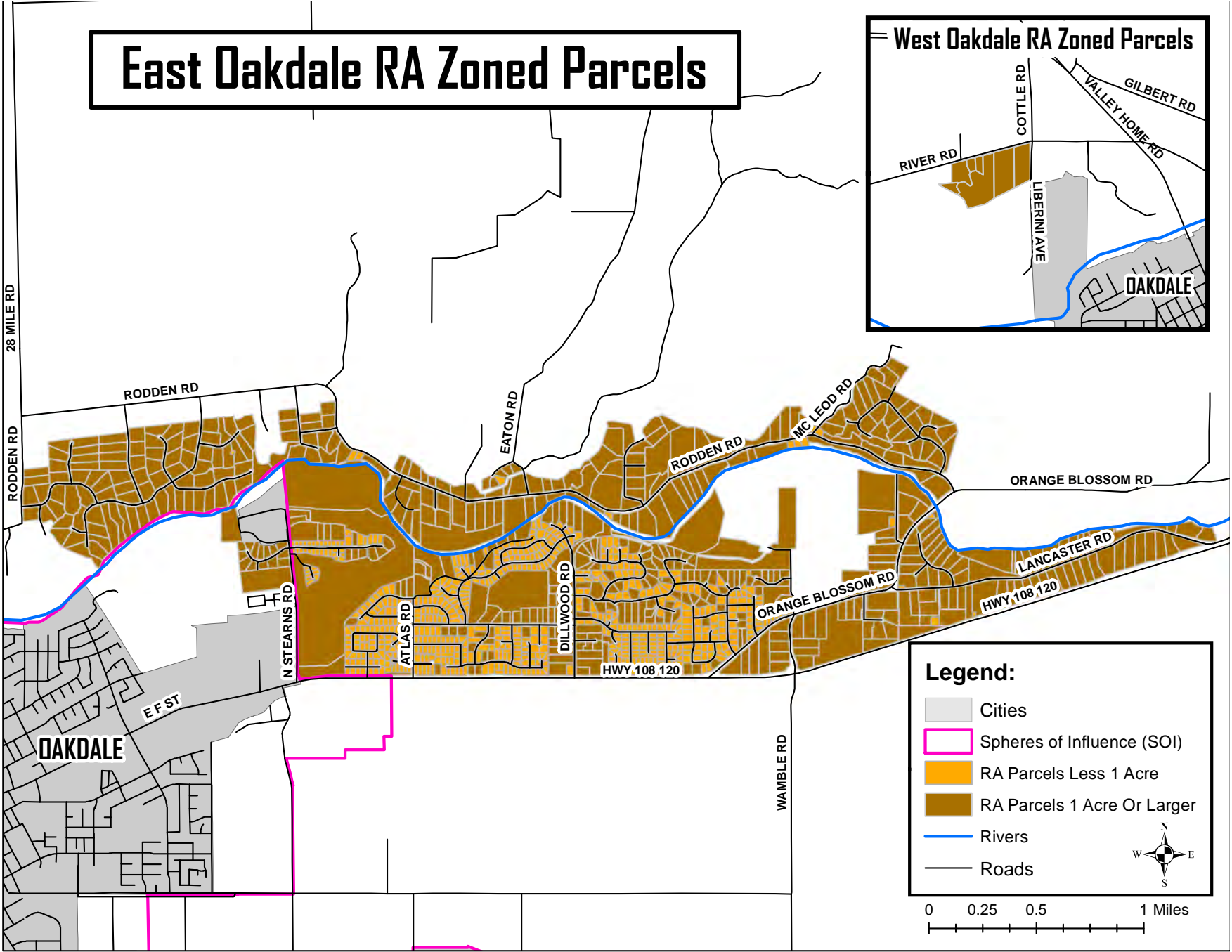
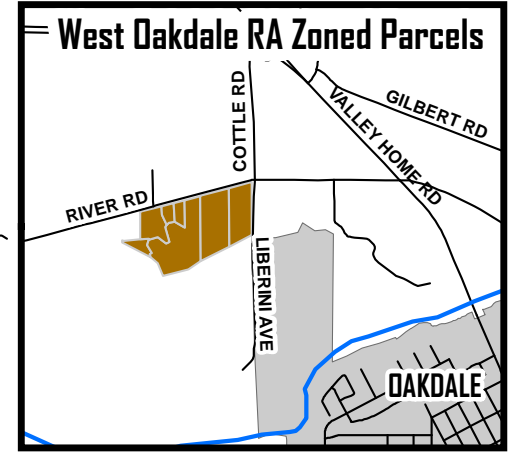
Rural Residential Zoned Parcels:	
Inside Sphere of Influence and 1 Acre or Larger	146
Inside Sphere of Influence and Less Than 1 Acre	1178
	1324
Outside Sphere of Influence and 1 Acre or Larger	694
Outside Sphere of Influence and Less Than 1 Acre	2040
	2734



Legend:


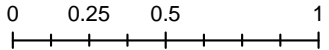
- Spheres of Influence (SOI)
- RA Parcels 1 Acre Or Larger Outside SOI
- RA Parcels Less 1 Acre Outside SOI
- RA Parcels 1 Acre Or Larger Inside SOI
- RA Parcels Less 1 Acre Inside SOI
- County Boundary

East Oakdale RA Zoned Parcels

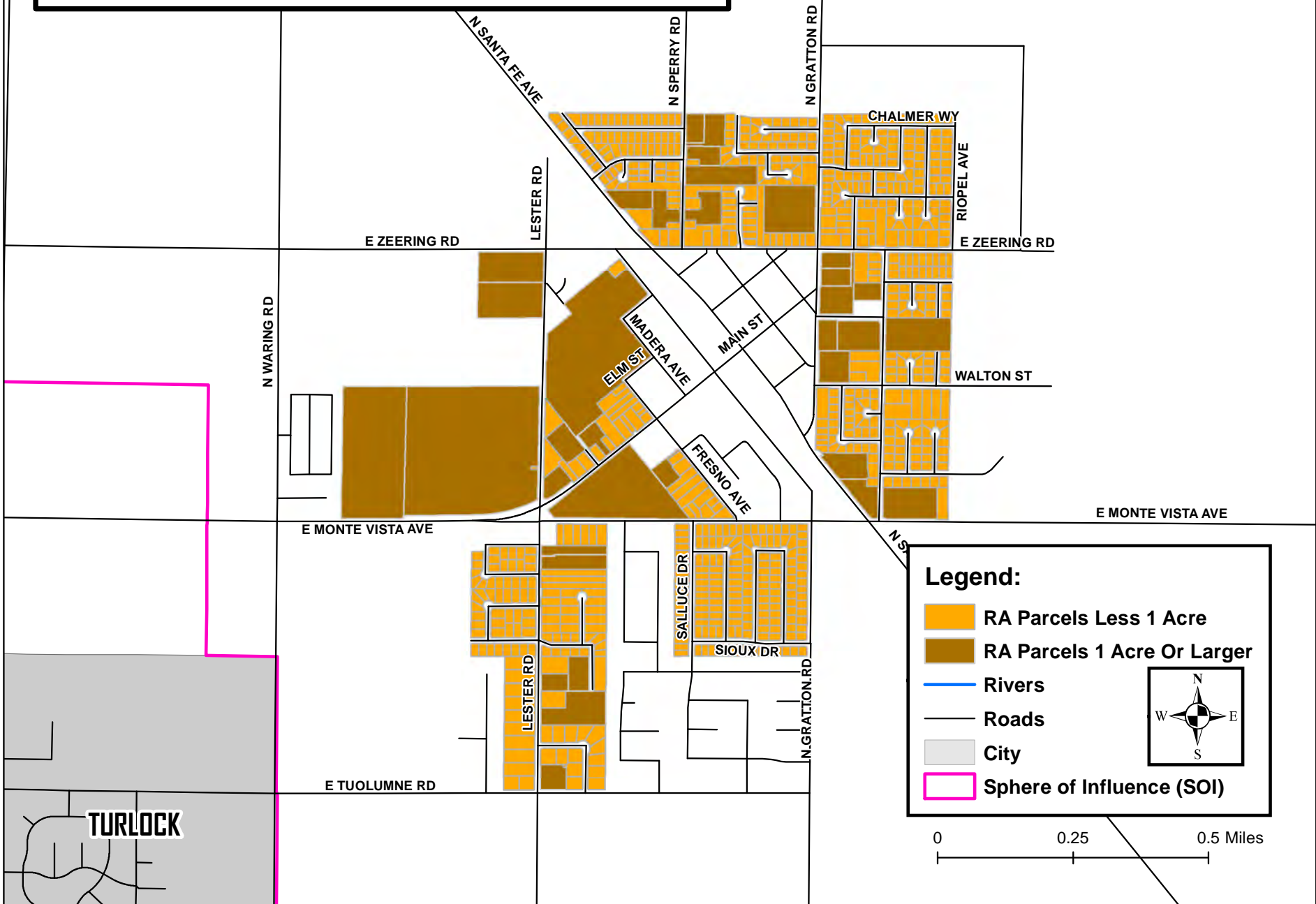


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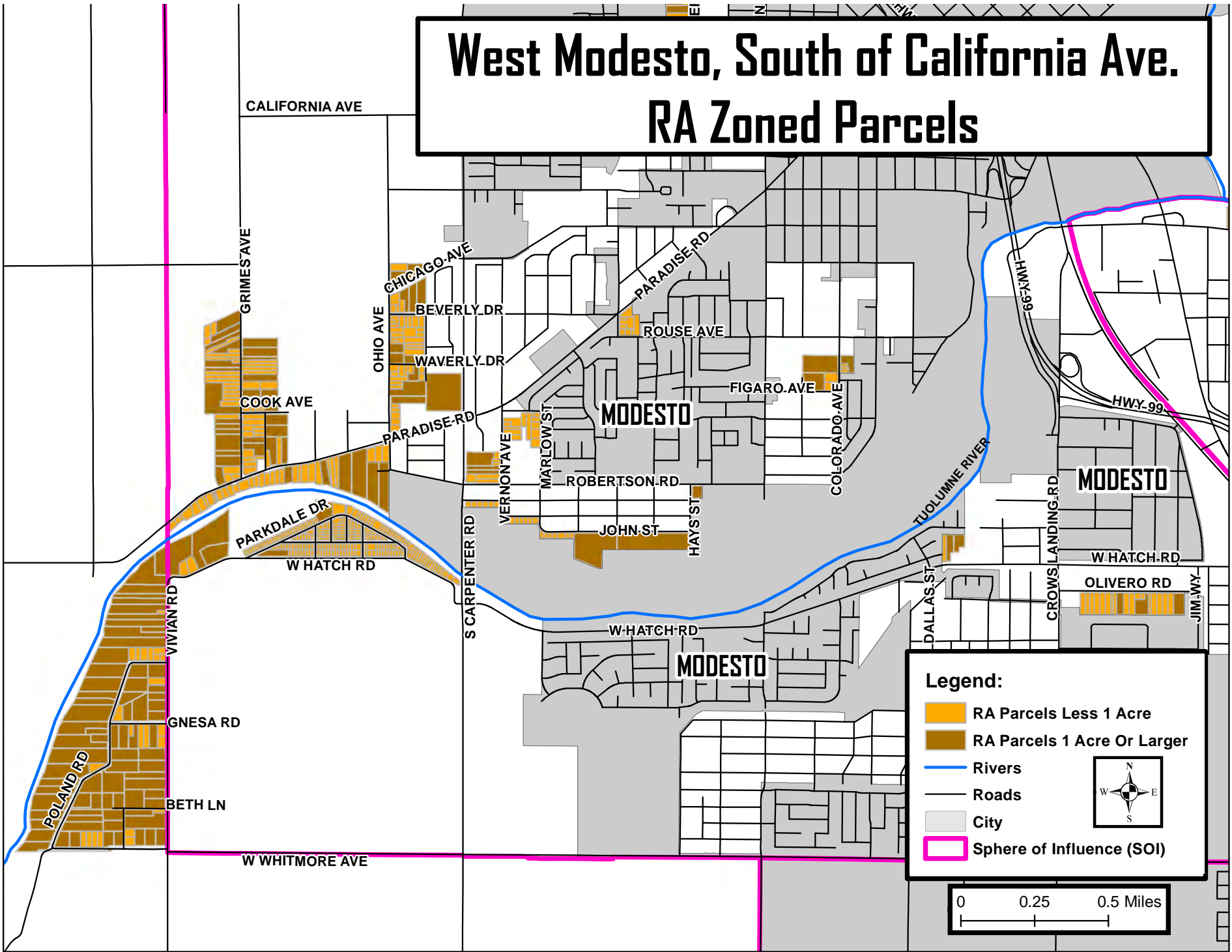
- Cities
- Spheres of Influence (SOI)
- RA Parcels Less 1 Acre
- RA Parcels 1 Acre Or Larger
- Rivers
- Roads


 0 0.25 0.5 1 Miles


Denair RA Zoned Parcels

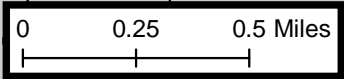


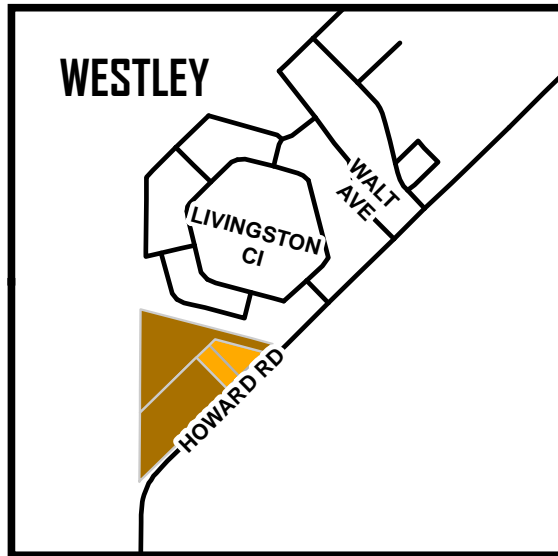
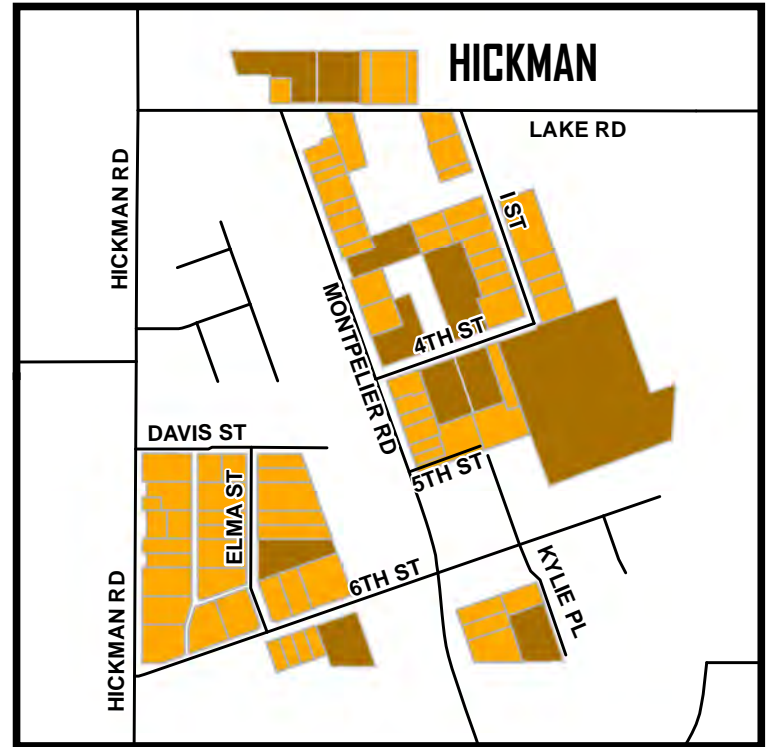
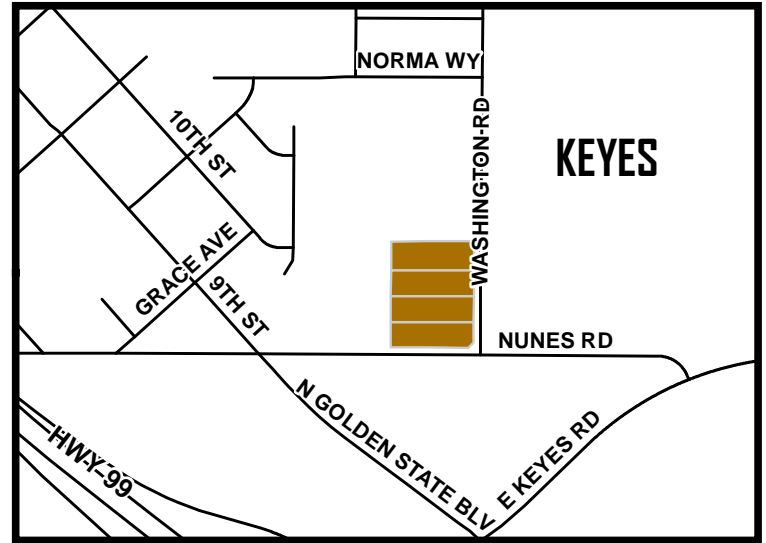
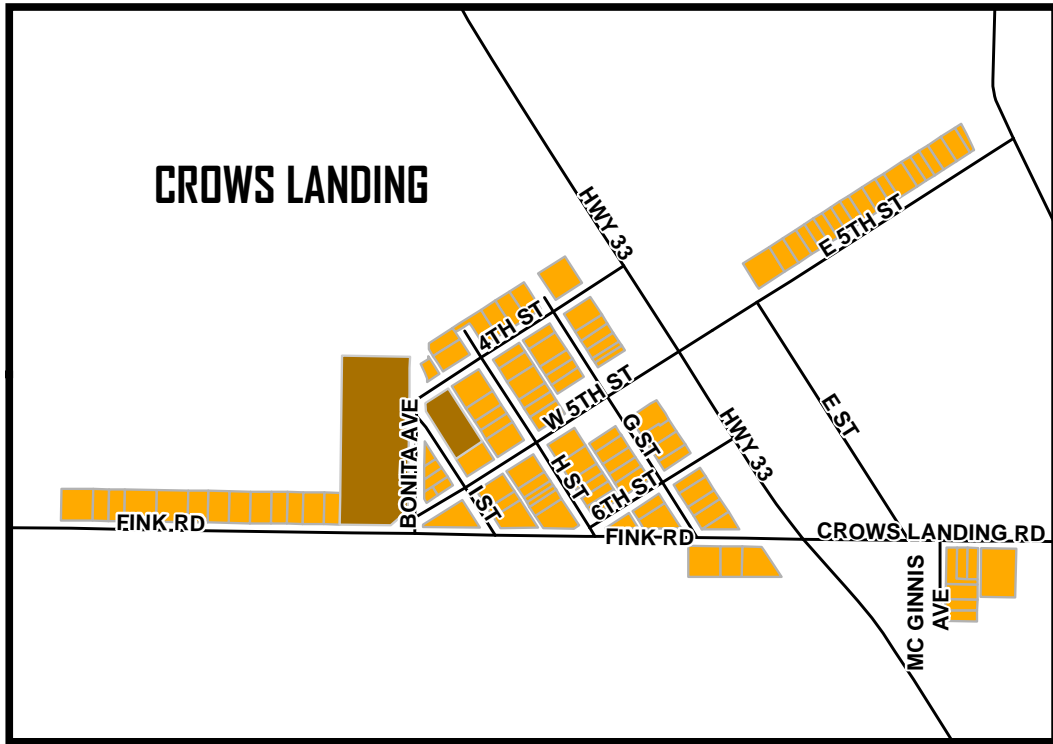
West Modesto, South of California Ave. RA Zoned Parcels



Legend:

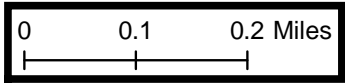
- RA Parcels Less 1 Acre
- RA Parcels 1 Acre Or Larger
- Rivers
- Roads
- City
- Sphere of Influence (SOI)



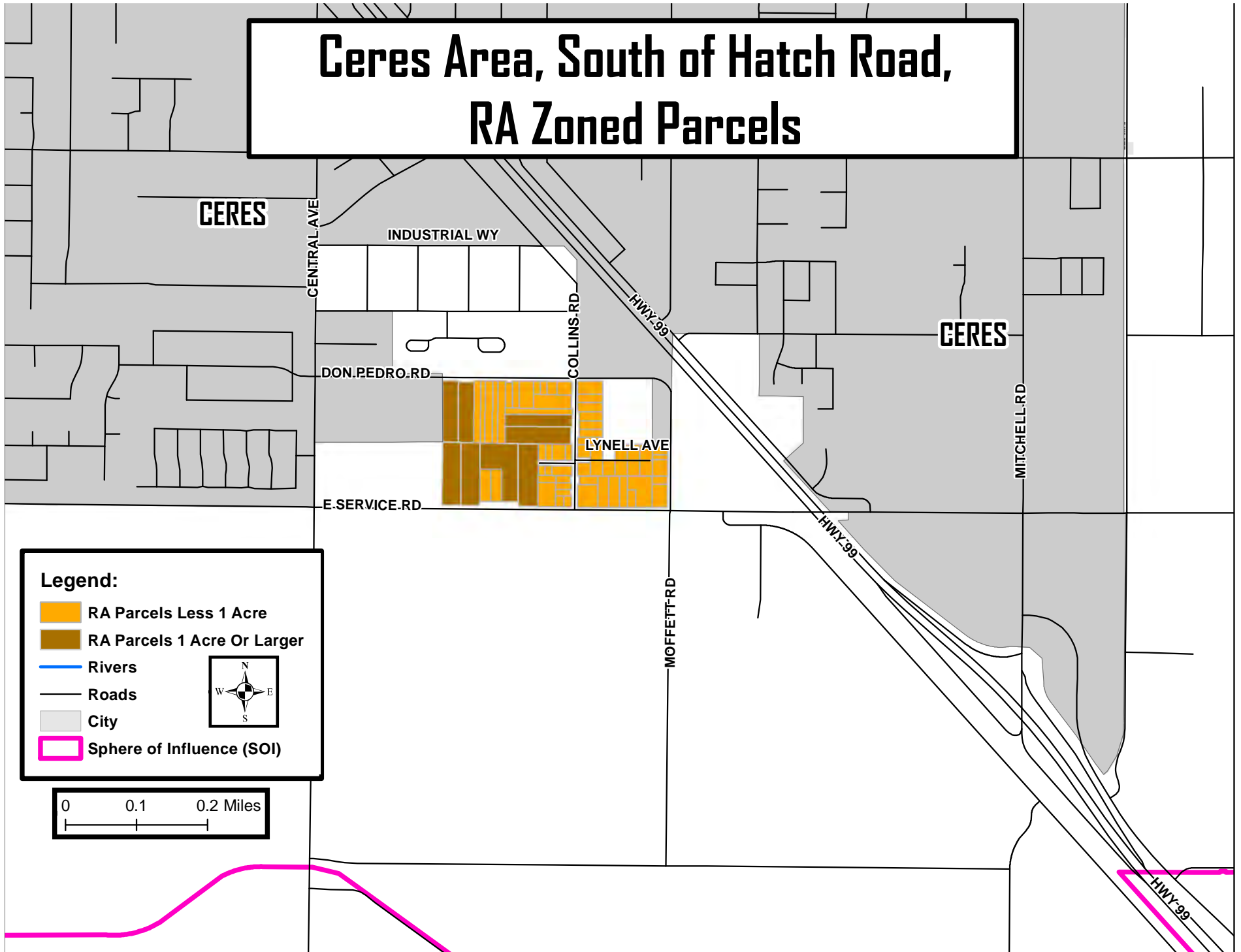


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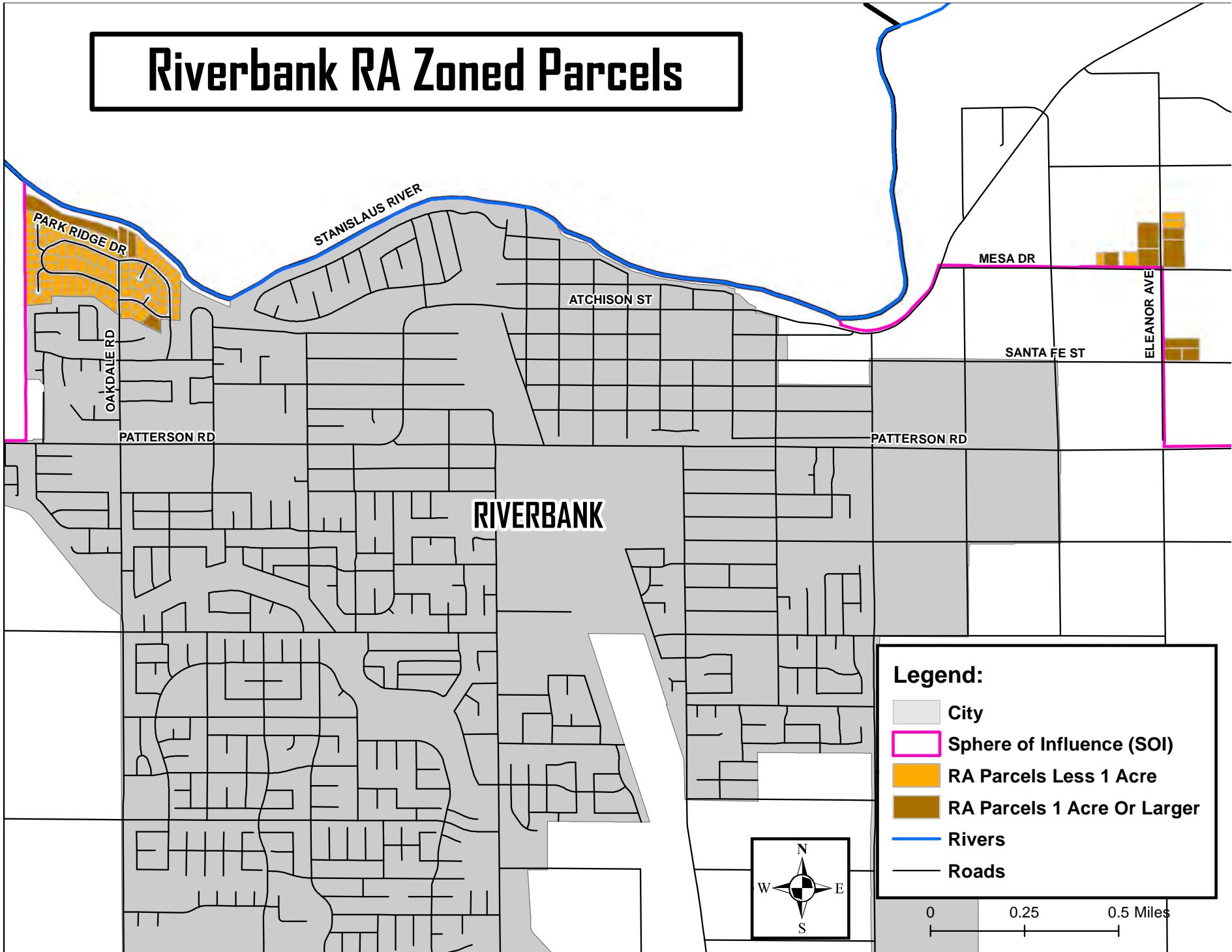
- RA Parcels Less 1 Acre
- RA Parcels 1 Acre Or Larger
- Rivers
- Roads
- City
- Sphere of Influence (SOI)



Ceres Area, South of Hatch Road, RA Zoned Parcels



Riverbank RA Zoned Parcels

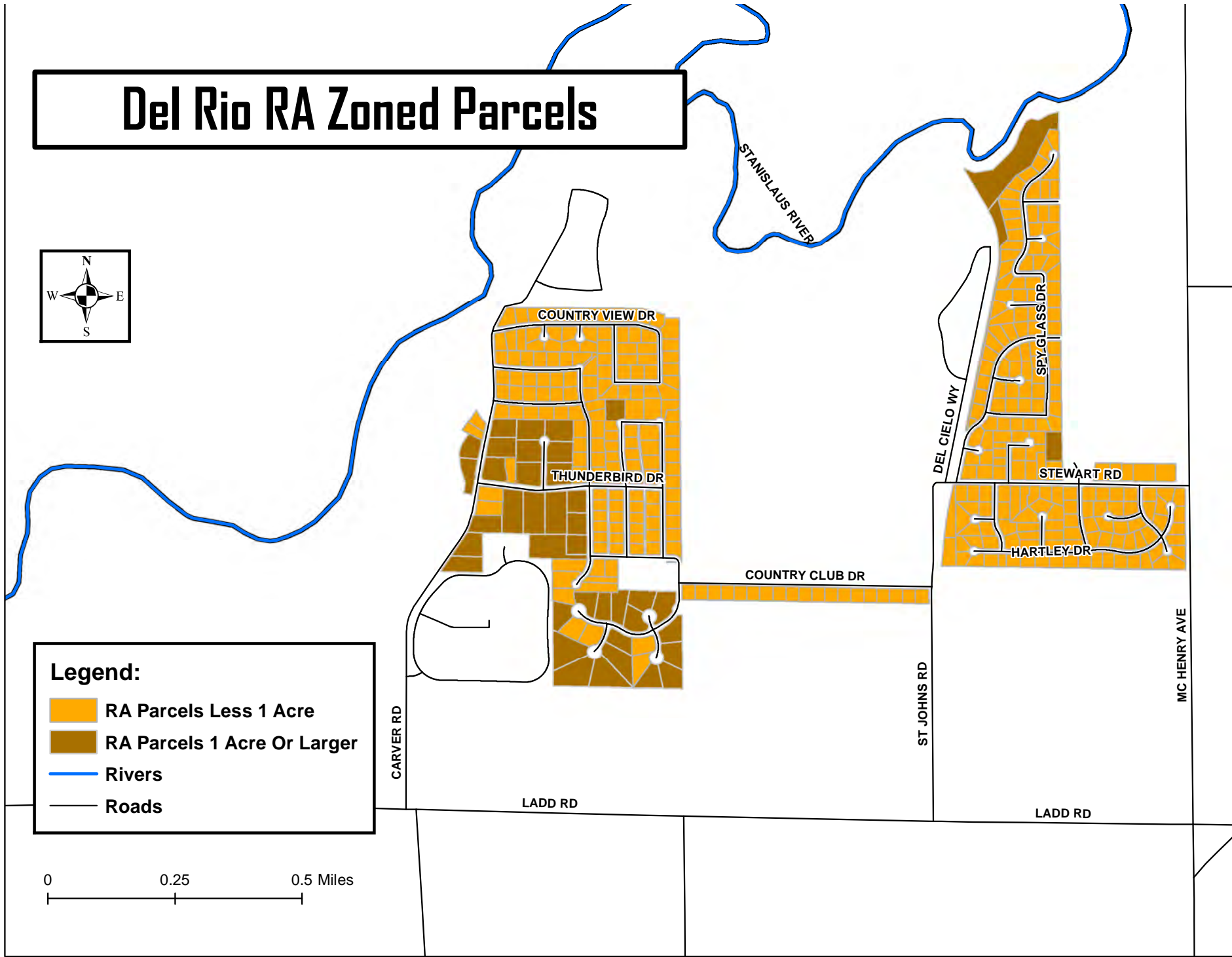
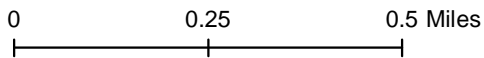


Del Rio RA Zoned Parcels

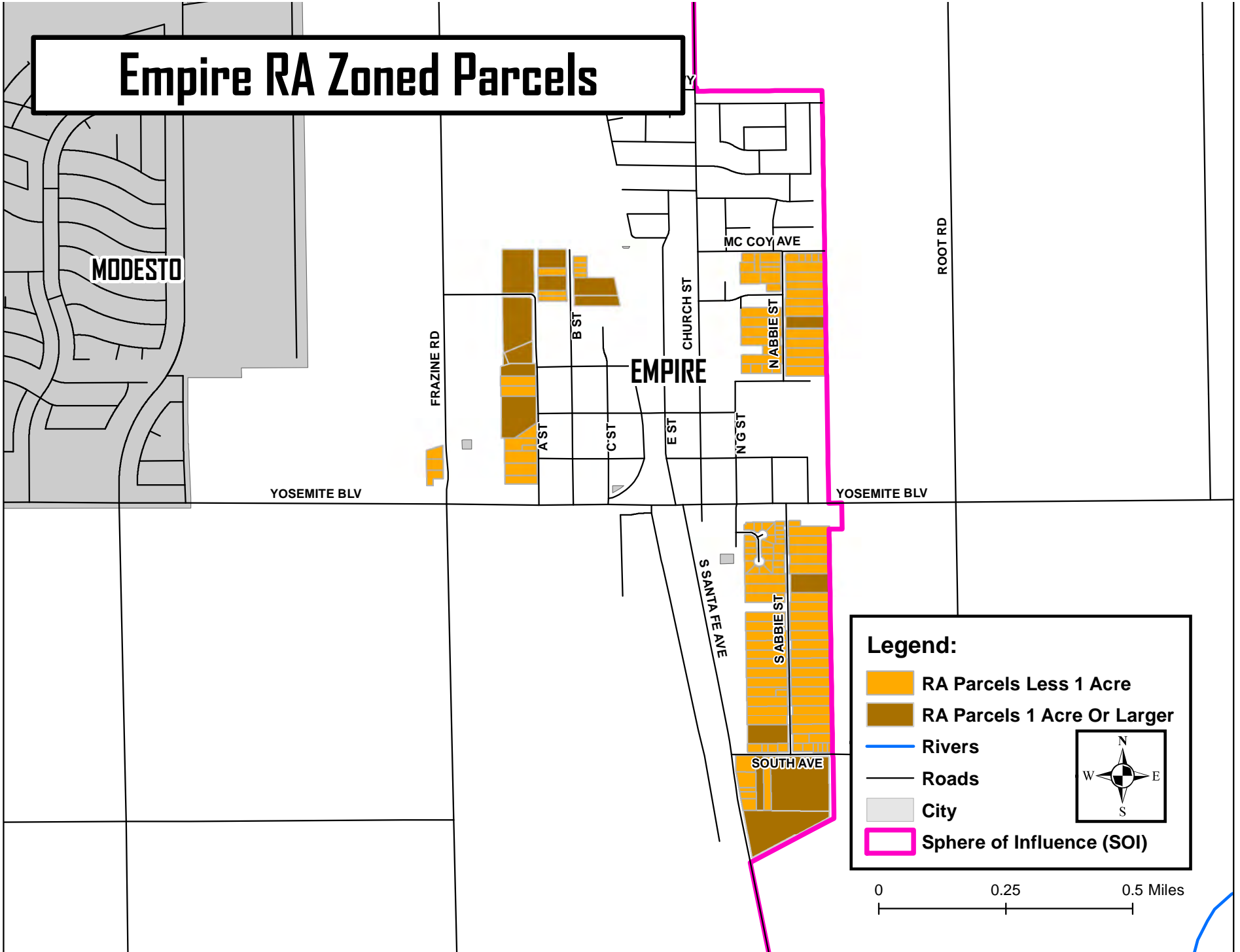


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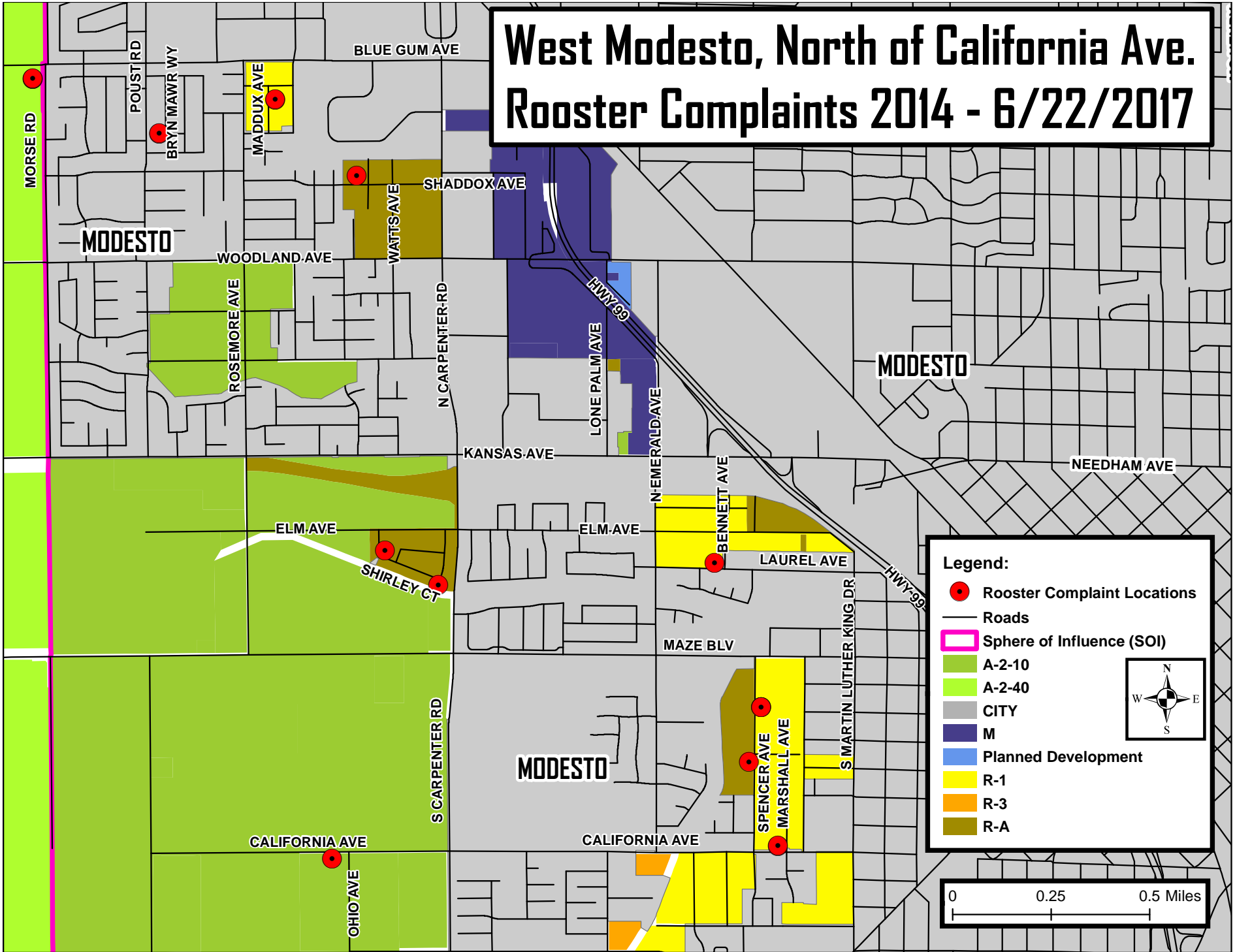
- RA Parcels Less 1 Acre
- RA Parcels 1 Acre Or Larger
- Rivers
- Roads



Empire RA Zoned Parcels

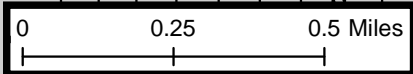


West Modesto, North of California Ave. Rooster Complaints 2014 - 6/22/2017



Legend:

- Rooster Complaint Locations
- Roads
- Sphere of Influence (SOI)
- A-2-10
- A-2-40
- CITY
- M
- Planned Development
- R-1
- R-3
- R-A



CITY & COUNTY COMPARISON
PERMITTED NUMBER OF SMALL LIVESTOCK - RESIDENTIAL ZONING DISTRICTS
Stanislaus County Zoning District Equivalents (R-1, R-2, AND R-3)

(-) = no particular mention

	Ceres	Hughson	Modesto ¹	Newman ²	Oakdale	Patterson	Riverbank	Turlock ³	Waterford	Stanislaus County - Current (less than 1 acre)	Stanislaus County - Proposed (less than 1 acre)
Chicken hens	0	0	12 or fewer	0	6 (domestic fowl)	6	6 (domestic fowl)	6 (domestic fowl)	6 max	12 or fewer	12 or fewer
Turkeys	0	0	0	0	0	0	0	6 (domestic fowl)	0	12 or fewer	12 or fewer
Pigeons**	-	0	0	0	6	-	6	6 (domestic fowl)	0	12 or fewer	12 or fewer
Rabbits	-	-	12 or fewer	1-2	4	10 (indoor)	4	4	(1,000 sq ft or more) 4 rabbits	12 or fewer	12 or fewer
Permanent Standard Beehives	0	0	0	0	-	-	-	0	-	4 or fewer	4 or fewer
Roosters	0	0	0	0	0	0	0	0	0	0*	0
Quacking Ducks	0	0	-	0	0	0	0	6 (domestic fowl)	0	0*	0
Geese	0	0	-	0	0	0	0	6 (domestic fowl)	0	0*	0
Guinea Fowl	0	0	-	0	0	0	0	6 (domestic fowl)	0	0*	0
Peafowl	0	0	-	0	0	0	0	6 (domestic fowl)	0	0*	0
Worms	0	-	-	0	-	-	-	-	-	0*	0 (commercial use)
Goats & Sheep "small animals"	0	0	0	0	1 per half acre	-	1 per half acre	(1/2 acre or more) 1	2 per 1/2 acre	0	0
Cows & Horses "large animals"	0	0	0	0	1 per half acre	-	1 per half acre	(1/2 acre or more) 1	4 per acre (no bulls)	0	0
Chinchillas, Hamsters, Mice, or Similar	-	-	-	-	6 or fewer	-	-	6 or fewer	-	-	-

*The County Zoning Ordinance has historically been interpreted by the Planning Department to allow for the keeping of zero roosters, quacking ducks, geese, guinea fowl, peafowl, and worms in residential zoning districts; however, in recent years, inconsistency in interpretation by other County departments has ranged from permitting none of the listed animals to allowing for an unlimited number.

**Other than Racing Homer Pigeons

¹ City of Modesto - Allows for a maximum of two (2) pygmy goats or other small domesticated animals that are compatible with residential uses, three months or older, per dwelling unit; and a maximum of two (2) miniature potbellied pigs, excluding boars, three months or older, per dwelling unit.

² City of Newman - Has a 'Special Animal Permit' that provides an opportunity for residents to have prohibited animals if they can meet certain findings/conditions. The permit is primarily used for Hens and Ducks for egg laying or pet purposes. Anything that may be a nuisance is not approved via this permit process.

³ City of Turlock - Hogs are prohibited except one (1) potbellied pig allowed with certain limitations specified by "6-1-112 - Exception: Potbellied Pigs" of the cities code. Limitations include: one (1) per residence; height/weight limitations; requirements for the secure keeping; permit from animal shelter required; must be detusked/neutered; and no evidence of public nuisance.

September 7, 2017 - Planning Commission

STANISLAUS COUNTY CEQA REFERRAL RESPONSE FORM

TO: Stanislaus County Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

FROM: BRIDGET RIDOLE LIFE MEMBER

SER PPBA Harburg Cls
APA J
amer

SUBJECT: ORDINANCE AMENDMENT APPLICATION NO. PLN 2017-0055 - SMALL LIVESTOCK FARMING

Based on this agencies particular field(s) of expertise, it is our position the above described project:

- Will not have a significant effect on the environment.
- May have a significant effect on the environment.
- No Comments.

Listed below are specific impacts which support our determination (e.g., traffic general, carrying capacity, soil types, air quality, etc.) - (attach additional sheet if necessary)

1. Please change amount of Roosters to 100
2. Please change to 20 feet from edge of property
3. Please change to 20 feet from any public street
- 4.

Listed below are possible mitigation measures for the above-listed impacts: PLEASE BE SURE TO INCLUDE WHEN THE MITIGATION OR CONDITION NEEDS TO BE IMPLEMENTED (PRIOR TO RECORDING A MAP, PRIOR TO ISSUANCE OF A BUILDING PERMIT, ETC.):

- 1.
- 2.
- 3.
- 4.

In addition, our agency has the following comments (attach additional sheets if necessary).

You are literally killing endangered ^{animals} and the right to raise all animals. We are becoming too URBAN!

Response prepared by: _____

Bridget Ridole Land holder
Poultry raiser Title
8-3-17 Date

Endangered Poultry
member

STANISLAUS CO. PUBLIC HEARING ~ 9-7-2017

RE: ORDINANCE AMENDMENT

NO. PLN 2017-0055 – SMALL LIVESTOCK FARMING

This is being submitted in behalf of the residents of Stanislaus County that are members of the CA Association for the Preservation of Gamefowl (APG) and many others that raise chickens in the county that are not part of the organization but, non the less, could be affected by this proposed ordinance change.

1. Calif. Civil Code (CCC), sec. 3482.5 : *A farm in operation for more than three years is not to be considered a nuisance due to changed conditions (urbanization) in the area*
2. Stanislaus County Right-to-Farm ordinance: ".....Residents of property on or near agricultural land should be prepared to accept the inconvenience or discomforts associated with agricultural operations, including but limited to noise, odors, flies, fumes, dust, the operation of machinery of any kind during any 24 hour period, the storage and disposal of manure..... Stanislaus County has determined that inconveniences or discomforts associated with such agricultural operations shall not be considered to be a nuisance if such operations are consistent with accepted customs and standards. Stanislaus County has established a grievance committee to assist in the resolution of any disputes....."
3. CCC 3493: *A private person may maintain an action for a public nuisance, if it is especially injurious to himself, but not otherwise.*
This would seem to prevent the County from taking any action minus an injured private party.
4. CCC PART 3, TITLE 1, 3480: *A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.*
5. NOISE LEVELS : County Animal Services animal noise complaint procedures has a long list of suggestions along the lines of making nice and being diplomatic with no mention of getting the Planning Director involved. This seems to be a violation of the Calif. Constitution, Art. 1, Sec. 7 (b) "*A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens.*"
Stanislaus County Noise Element, chapter 4, page 4, figure 3 provides acceptable noise levels for the different land use categories. Agriculture has the most lenient acceptable noise levels stated in hard numbers.
6. GOV. DUEUKMEJIAN E.O. D-78-89, 1. b (ii) *Governmental actions which interfere with the use and enjoyment of, or access to and from private property may constitute a taking.*

7. USC Title 7, sec. 601: *No state can restrict the raising of any commodity for personal use.*
8. Potential / actual complaints adjudicated by a planning director (or any other County employee) is a violation of due process. See U.S. Constitution 5th & 14th Amendments as well as the California Constitution, Art. 1, sec. 3 (b) 4: *Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that a person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided in Section 7.*
A single arbitrator is also inconsistent with the Stanislaus County Right to Farm ordinance.
9. The county can't change the terms of a deed without first buying the property
10. 42 U.S.C. Sec. 1983: *Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress,*

It seems to me that the County already has the tools that it needs to handle valid complaints. The problem seems to arise when urban dwellers encroach on agricultural lands and aren't willing to live within long established conditions of country life. It would be much easier for the County to simply remind the complainer that they must live under the conditions of their property deeds or move to an area that conforms to their sensibilities. This may seem like a benign ordinance change but any assault on property RIGHTS is an assault on all of our civil rights.

The DA's office will tell you that you have the authority to amend the ordinance as proposed. However, the courts have ruled otherwise :{CASE} **FW/PBS v. DALLAS**: *US Supreme Court ruling = the government must PROVE a "significant governmental interest" in infringing on constitutional rights and even if there is found a significant interest to infringe on the rights of the person, the government will do so in the least intrusive manner.*

There is no compelling government interest here. This proposed amendment is nothing more than an attempt to circumvent the US Constitution, the California Constitution and existing Stanislaus County ordinances and guidelines.

Respectfully,

John F Harless

President, CA Association for the Preservation of Gamefowl
 President, United Gamefowl Breeders Association

STANISLAUS COUNTY
DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT
1010 10th Street, Suite 3400
Modesto, California 95354

NOTICE OF EXEMPTION

Project Title: Ordinance Amendment No. PLN2017-0055 Small Livestock Farming

Applicant Information: Stanislaus County/ 1010 10th street/ Modesto, CA 95354/ (209) 525-6330

Project Location: County-wide

Description of Project: The Planning Department is proposing the following amendments to Title 21, Chapter 21.12 – Definitions, Chapter 21.24 R-A (Rural Residential) Zoning District, and Chapter 21.80 – Nonconforming uses of Stanislaus County Title 21 Zoning Ordinance as follows:

- Section 21.12.530: The definition of “Small Livestock Farming” is amended to clarify the total number of fowl, animals, and beehives allowed; and to clarify that no small domestic animals with the potential to cause a nuisance shall be permitted under the definition.
- Section 21.24.020(B): The exclusion of turkeys is deleted for consistency with the definition of Small Livestock Farming, which allows for the raising and keeping of turkeys.
- Section 21.24.080(D): The yard requirement for the keeping of livestock and poultry is amended to include pens, coops, cages, or similar housing used for keeping livestock or poultry, in addition to buildings; to clarify that the setback requirement from any public street is measured from edge of pavement; and to delete the setback requirement from any window or door of any building used for human occupancy.
- Section 21.80.020(A)(1): This section is amended to clarify that, with the exception of commercial dairy, poultry, or hog operations, the keeping of animals in quantities greater than permitted by Title 21 shall not be subject to continuation as a nonconforming use.

Name of Agency Approving Project: Stanislaus County Planning Commission

Lead Agency Contact Person: Denzel Henderson, Assistant Planner **Telephone:** (209) 525-6330

Exempt Status: (check one)

- Ministerial (Section 21080(b)(1); 15268);
- Declared Emergency (Section 21080(b)(3); 15269(a));
- Emergency Project (Section 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: _____
- Statutory Exemptions. State code number: _____
- General Exemption.

Reasons why project is exempt: The project will update the County’s zoning ordinance and will have no direct physical impact on the environment.

August 14, 2017
August 14, 2017

Signature on file.
Denzel Henderson Assistant Planner

SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS

PROJECT: ORDINANCE AMENDMENT APPLICATION NO. PLN 2017-0055 - SMALL LIVESTOCK FARMING

REFERRED TO:			RESPONDED		RESPONSE			MITIGATION MEASURES		CONDITIONS	
	2 WK	PUBLIC HEARING NOTICE	YES	NO	WILL NOT HAVE SIGNIFICANT IMPACT	MAY HAVE SIGNIFICANT IMPACT	NO COMMENT NON CEQA	YES	NO	YES	NO
CA DEPT OF FISH & WILDLIFE	X	X		X							
CITY OF: ALL	X	X	X				X		X		X
COOPERATIVE EXTENSION	X	X		X							
FIRE PROTECTION DIST: ALL	X	X		X							
IRRIGATION DISTRICT: ALL	X	X		X							
MUNICIPAL ADVISORY COUNCILS: ALL	X	X		X							
MOSQUITO DISTRICT: EASTSIDE, TURLOCK	X	X		X							
PACIFIC GAS & ELECTRIC	X	X		X							
RAILROAD: ALL	X	X		X							
SCHOOL DISTRICT 1: ALL	X	X		X							
STAN COUNTY AG COMMISSIONER	X	X		X							
STAN CO ANIMAL SERVICES	X	X		X							
STAN CO BUILDING PERMITS DIVISION	X	X		X							
STAN CO DER	X	X		X							
STAN CO ERC	X	X		X							
STAN CO FARM BUREAU	X	X		X							
STAN CO PUBLIC WORKS	X	X		X							
STAN CO SHERIFF	X	X	X				X		X		X
STAN CO SUPERVISOR DIST : ALL	X	X		X							
STAN COUNTY COUNSEL	X	X		X							
STANISLAUS FIRE PREVENTION BUREAU	X	X		X							
INTERESTED PARTIES	X	X	X				X		X		X

Attachment 3

Stanislaus County Planning Commission
Minutes
September 7, 2017
Page 2

- B. ORDINANCE AMENDMENT NO. PLN2017-0055 – SMALL LIVESTOCK FARMING** – Request to amend Chapters 21.12 – Definitions, 21.24 - R-A (Rural Residential) Zoning District, and 21.80 – Nonconforming Uses of the Stanislaus County Title 21 Zoning Ordinance to: clarify the definition of Small Livestock Farming; delete the exclusion of turkeys; add new yard requirements and setbacks for the keeping of livestock and poultry; and limit the keeping of animals in quantities greater than permitted as a nonconforming use. This project is being deemed exempt from the California Environmental Quality Act APN: Countywide.
Staff Report: Denzel Henderson, Assistant Planner, Recommends **APPROVAL**
Public hearing opened.
OPPOSITION: John Harless, Mark Wright, Brian Hodges, Dave Duran
FAVOR: Connie Goesch, Michelle Peterson, Janie Ramirez, Dave Goesch
Public hearing closed.
Etchebarne/Blom (7/0) **RECOMMENDED APPROVAL TO THE BOARD OF SUPERVISORS AS OUTLINED IN THE STAFF REPORT**

EXCERPT
PLANNING COMMISSION
MINUTES

Signature on file.
Angela Freitas, Secretary

October 10, 2017
Date

Attachment 4

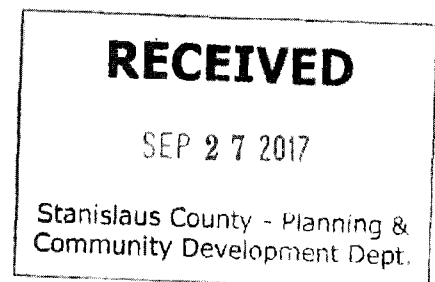
Sept. 12, 2017

To Whom it may Concern:

My family has lived in a RA zone on the same street in Modesto for over 70 years. My grandparents, my parents & myself. I was born & raised here. My husband & I bought my grandparents house 20 years ago because we loved our country neighborhood. We lived in town the first 10 years we were married & couldn't wait to get back out to the quiet country life. In the recent years our neighborhood has changed drastically. New home owners or renters that feel since they live in the country they have the right to do what they want. It use to be you would occasionally hear a rooster in the morning but now that is all you hear all day! You can't even sleep with your windows open because of the noise. No one needs to have that many roosters! You can't tell me that these people are not raising these rooster to fight. Even though we are in the country our homes are too close to have cages & cages full of roosters. There is no reason to have that many roosters. Along with the noise from the roosters brings the other possibility of gangs, fighting & crime. I am also a animal lover & I feel sorry for how those poor roosters are taken care of & housed as well. I know that getting rid of the rooster won't solve all the problems but it will give us back some of our peace & quiet.

Sincerely,

One of many concerned residents



Sept. 15, 2017

To Whom This Concerns,

WE ARE THE EATON'S AT 1507 GRIMES AVE.
 WE ARE UNABLE TO ATTEND THE SUPERVISOR
 MEETING. WE ARE WRITING THIS LETTER TO
 CONFIRM OUR APPROVAL OF THE ORDINANCE
 PUT BEFORE YOU REGARDING THE ROOSTER
~~PROBLEM~~ WHICH BRINGS THE ILLEGAL COCK
 FIGHTING, GAMBLING, WEAPONS, DRUGS, ETC.
 TO OUR AREA. THE NUMBER ISSUE WE HAVE
 IS THE NOISE BY HUNDREDS OF ROOSTERS.
 WE MOVED HERE 34 YRS AGO. AT THAT TIME
 WE THOUGHT WE WERE IN HEAVEN. NO ROOSTERS
 ONLY FROGS AND CRICKETS. BUT IN THE LAST
 10 YRS. WE HAVE BEEN INVADDED WITH ROOSTERS
 ALONG GRIMES AVE. OUR QUALITY OF LIFE
 HAS CHANGED DRAMATICALLY. WE ACTUALLY
 FEAR FOR OUR SAFETY FOR THE TYPE OF
 PEOPLE IT BRINGS TO OUR COMMUNITY.
 "THE NOISE IS TOO MUCH!"

Sincerely,
 ROBERT & DIANA EATON

ANY QUESTIONS PLEASE CONTACT US
 [REDACTED]

RECEIVED

SEP 27 2017

Stanislaus County - Planning &
 Community Development Dept.

Sept. 17, 2017

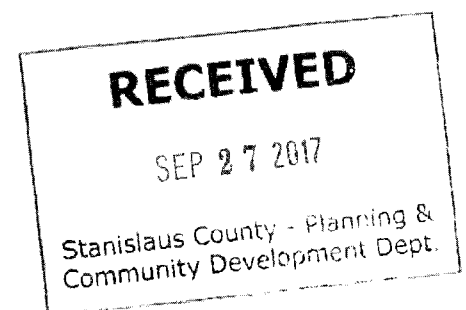
To whom it may concern,

My family and I have been residing on the West side of Modesto for over 35 years. We have enjoyed living in the our rural neighborhood; however, we have struggled adjusting to the constant noise and disturbance caused by the countless amount of roosters housed near our property. The roosters begin around 1:00 am and continue well into the 7:00 am hour. The noise makes a restful sleep impossible! We have made several adjustments in order to drown out the noise but those efforts have failed. Even with the windows closed the incessant noise can be heard through our double-pane windows.

We respectfully request that the county consider implementing restrictions in order to remedy this community nuisance. My family and I appreciate your time and consideration in this matter.

Respectfully submitted,

Restless homeowners



September 26, 2017

RE: ORDINANCE AMENDMENT APPLICATION NO. PLN 2017-0055 – SMALL LIVESTOCK FARMING

Dear Supervisor Withrow,

I had the opportunity to speak at the public hearing on this matter on September 7th at the Planning Commissioners Public hearing.

I was hoping to have a little back and forth Q&A period after the public statements but we, the Public, were not recognized. The Planning Director Angela Freitas, was asked a couple of "softball" questions; none of which addressed the numerous issues that I presented.

It didn't appear to me that any of the Commissioners had actually studied the proposed amendments and that the "fix" was in regardless of public input or questions.

I raised the question about the compelling need for these changes. Angela Freitas and Denzel Henderson showed a stat sheet on the number of rooster crowing complaints. This was data with no context. How many were actually valid complaints (investigated and confirmed)? For the two year time period of the study there were 107 non-duplicated complaints. How many total complaints about various issues were logged for that same period? Were the 107 rooster complaints 90% of total complaints? 50%? 25%? 10%? I think you get the point. The data that Angela provided proved nothing to support her case yet the Commissioners were all silent. There was also the comment that the existing ordinance was "dated" and needed some fine tuning. Again, nothing was presented to support that notion. Stanislaus County has a Right to Farm Ordinance that has provisions for handling grievances. Angela was silent on why that was not adequate in handling complaints.

Commissioner Borges did some polling of the audience about lot sizes and it seemed as most of us there had more than an acre. Katherine then commented that the proposed amendments would only affect those with one acre or smaller lots. I don't know where she got that. I can't find it anywhere. Small Livestock Farming doesn't mention acreage. R-A zoning refers to one acre or more. Regardless of the number of people in the room that would be affected by this it still doesn't justify the proposed amendments.

21.24.080(D) – yards of R-A zoning see exhibit B

The proposed amendment to restrict pens, coops, cages, etc. to 40' from property lines and 50' from the road make absolutely NO sense, especially considering that a permanent building can be built much closer to the property

2017 SEP 29 A 9:54
BOARD OF SUPERVISORS

line. So in affect, a rabbit hutch on the back of an acre, 39' from the property line, is more intrusive than a two story house casting a shadow on a neighbors' house.

And yet, the Commissioners no questions on the science or compelling need for this amendment. This would basically prevent the owner of a one acre parcel from using his property for the reason that he bought it.

21.12.530 Small Livestock Farming see exhibit B

This gives the Planning Director dictatorial power. The power to revoke property rights based on his/her belief that something has the **potential** to become a nuisance.

Now this has an overwhelming smell of the old USSR but it didn't stir the Commissioners to a single question !

My citations (see exhibit A) of the US and California Constitutions, Calif. Civil Codes, Executive orders, Supreme Court cases and existing County code remedies did not stir the Commissioners to ONE question !!?? There wasn't one question about the economics of the County being sued for governmental Taking and having to buy property and settle civil rights violations with multi-million dollar settlements. (SCOTUS has placed a \$1 million value on each civil right that is violated)

Katherine Borges stated at the beginning of the meeting that no one knew how anyone was going to vote. I was skeptical of that. The results confirmed my skepticism. Angela didn't make her case. The Commissioners threw her a couple of softball questions but were basically uninterested in drilling down to the real issues at stake. Then the "rubber stamp" unanimous vote to recommend it to the Board of Supervisors.

No wonder there is such cynicism regarding government. There must be something about being in a position of some power that short circuits one's ability to think critically as an individual and base decisions on empirical evidence, confined to the Constitution.

I'm hoping to be able to have a "face to face" with you, or with all the Supervisors as a group, concerning this matter prior to the Public hearing. I will be contacting your office to try and arrange a time.

Respectfully,



John F Harless

President, CA Association for the Preservation of Gamefowl



EXHIBIT A

RE: ORDINANCE AMENDMENT

NO. PLN 2017-0055 –SECTION 21.12.530 SMALL LIVESTOCK FARMING

This amendment, allowing a single person to determine how a landowner can use their property based on a complaint, or even a **POTENTIAL** complaint, is fraught with many problems.

1. **Calif. Civil Code (CCC), sec. 3482.5** : *A farm in operation for more than three years is not to be considered a nuisance due to changed conditions (urbanization) in the area*

2. **Stanislaus County Right-to-Farm ordinance:** "Residents of property on or near agricultural land should be prepared to accept the inconvenience or discomforts associated with agricultural operations, including but limited to noise, odors, flies, fumes, dust, the operation of machinery of any kind during any 24 hour period, the storage and disposal of manure..... Stanislaus County has determined that inconveniences or discomforts associated with such agricultural operations shall not be considered to be a nuisance if such operations are consistent with accepted customs and standards. Stanislaus County has established a grievance committee to assist in the resolution of any disputes....."

Definition of Agriculture

21.12.020 Agriculture. "Agriculture" means the tilling of the soil, the raising of crops, horticulture, viticulture, small livestock farming, dairying, aquaculture, or animal husbandry, including all uses customarily incidental thereto but not including slaughterhouses, fertilizer yards, bone yards or plants for the reduction of animal matter or any other industrial use which is similarly objectionable because of noise, odor, smoke, dust or fumes. (Ord. CS 1020 § 1, 2007; Ord. CS 106 §1, 1984).

3. **CCC PART 3, TITLE 1, 3480:** *A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.*
This will eliminate a cranky neighbor being able to impose their will on a neighbor.

4. **NOISE LEVELS** : County Animal Services animal noise complaint procedures has a long list of suggestions along the lines of making nice and being diplomatic with no mention of getting the Planning Director involved. This seems to be a violation of the Calif. Constitution, Art. 1, Sec. 7 (b) "*A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens.*"
Stanislaus County Noise Element, chapter 4, page 4, figure 3 provides acceptable noise levels for the different land use categories. Agriculture has the most lenient acceptable noise levels stated in hard numbers. If these levels aren't exceeded then how could it be deemed a nuisance?
5. **GOV. DUEKMEJIAN E.O. D-78-89, 1. b (ii)** *Governmental actions which interfere with the use and enjoyment of, or access to and from private property may constitute a taking.*
6. **USC Title 7, sec. 601:** *No state can restrict the raising of any commodity for personal use.*
7. Potential / actual complaints adjudicated by a planning director (or any other County employee) is a **violation of due process**. See **U.S. Constitution 5th & 14th Amendments** as well as the **California Constitution, Art. 1, sec. 3 (b) 4:** *Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that a person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided in Section 7.*
A single arbitrator is also inconsistent with the Stanislaus County Right to Farm ordinance.
8. The county can't change the terms of a deed without first buying the property.
9. **42 U.S.C. Sec. 1983:** *Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress,*
10. The County already has the tools that it needs to handle valid complaints.

11. The DA's office will tell you that you have the authority to amend the ordinance as proposed. However, the courts have ruled otherwise :{CASE} **FW/PBS v. DALLAS**: US Supreme Court ruling = the government must PROVE a "significant governmental interest" in infringing on constitutional rights and even if there is found a significant interest to infringe on the rights of the person, the government will do so in the least intrusive manner.

12. There is no compelling government interest here. This proposed amendment is nothing more than an attempt to circumvent the US Constitution, the California Constitution and existing Stanislaus County ordinances and guidelines.

Amendment to Section 21.24.020, D. These restrictions for set-backs have absolutely NO science behind it. NO compelling interest. These set-backs, on an acre parcel, would effectively take 2/3 of the property out of use. That is governmental taking. Will the County buy these affected properties?

Amendment to Section 21.80.020, A (1). This disallows any "grandfathering". Again, this is governmental taking. Will the County buy these properties?

Does the County really want to step into this legal mine field?

Is there extra money in the budget to purchase property affected by these changes?

The Supreme Court of the United States has placed a \$1 million price tag on each Civil rights violation. Is the County prepared for that? Civil Rights violations WILL be challenged in court.

Small Livestock Farming – Proposed Ordinance Amendment

Amend Section 21.12.530 of Chapter 21.12 – Definitions to read as follows:

21.12.530 Small livestock farming.

“Small livestock farming” means the raising or keeping of more than **a combined total of twelve chicken hens, turkeys or twelve pigeons (other than defined in Section 21.12.500) or twelve similar fowl or twelve rabbits or twelve similar animals, or four permanent standard beehives or any roosters, quacking ducks, geese, guinea fowl, peafowl, goats, sheep, worms or similar livestock provided that the term “small livestock farming” as used in this title shall not include hog farming, dairying or the raising or keeping for commercial purposes of horses, mules or similar livestock as determined by the board of supervisors. “Small livestock farming” as used in this title shall not allow for the keeping, in any quantity, of roosters, quacking duck, geese, guinea fowl, peafowl, worms (except for personal use), or any other small domestic animal determined by the Planning Director to have the potential to cause a nuisance.** The keeping of animals in quantities less than described above is permitted in any district.

Amend Section 21.24.020– Permitted Uses of the R-A Zoning District to read as follow:

- B. Small livestock farming, on parcels of one acre or more, but excluding hogs and turkeys;

Amend Section 21.24.080(D) – Yards of the R-A Zoning District to read as follows:

- D. Buildings, **pens, coops, cages, or similar housing used** for Keeping Livestock or Poultry. Not less than fifty feet from any public street, **measured from edge of pavement,** nor less than forty feet from any window or door of any building used for human occupancy or any adjacent property

Amend Section 21.80.020 – Continuation of the Nonconforming Chapter to read as follows:

- A. A lawful nonconforming use may be continued; provided, that no such use shall be enlarged or increased, nor be extended to occupy a greater area than that occupied by such use prior to the date the use became nonconforming, and that if any such use is abandoned, the subsequent use shall be in conformity to the regulations specified by this title for the district in which the land is located.

1. **The keeping of animals in quantities greater than permitted by this title shall not be subject to continuation, except for commercial dairy, poultry, or hog operations.**

Angela Freitas - Small Livestock Farming Amendment

From: John Harless <caapg@yahoo.com>
To: Angela Freitas <angela@stancounty.com>
Date: 10/6/2017 9:57 AM
Subject: Small Livestock Farming Amendment
CC: Denzel Henderson <hendersond@stancounty.com>, "olsenk@stancounty.com" <o...

Angela,

It was nice meeting you and Denzel at the Commissioner's Public Hearing last month.

It goes without saying that I was disappointed at the the vote to recommend the proposed changes to the Board of Supervisors. What really struck me was the lack of compelling evidence presented that would suggest that they was no other way to handle complaints other than this proposal. It was equally curious that the Commissioners did not question you about some glaring problems with the proposed changes. They didn't seem to care about existing provisions in the County Right to Farm Ordinance that has provisions for a grievance committee to hear and settle disputes. The Commissioners didn't seem to care that Calif Civil Codes protect agricultural land owner against nuisance complaints. The Commissioners didn't seem to care if this proposal would violate the US Constition and the Calif. Constitution regarding "Due Process" by having a single person decide how a person can use their property on even a POTENTIAL nuisance complaint. I don't know if you had to take an oath to to the Constitution before you took your position but, regardless, as an American I would think that would be VERY important to you. The Commissioners didn't seem to care about the established noise level allowances that the County already has in place. The Commissioners didn't seem to care about US codes that states that you can't restrict the raising of a commodity for personal use or that there is a US code that they, and you, are subject to law suits for the deprivation of rights. The Commissioners didn't seem to care that the proposal would restrict two thirds of the use of an one acre parcel. Nor were they concerned about the cost to the County for buying land that this amendment would trigger when the "Taking" occurred as defined in Gov. Dueukmejian's executive order D-78-89, 1. b. Nor did they enquire about the potential for civil rights violation law suits. The SCOTUS has determined that civil rights violation are valued at \$1 million each. THERE WILL BE LAWSUITS if these changes are approved and enforced.

All this to say that I'm sure you know that this amendment proposal is completely unnecessary and is fatally flawed. I'm asking you to be reasonable and lawful and withdraw this proposal. It has already cost the County too much money and it will only get worse if you proceed.

Thank you for your consideration and your ability to see and do the right thing.

Respectfully,

John F Harless

President, Calif. Assoc. for the Preservation of Gamefowl

Attachment 5

STANISLAUS COUNTY
PERMITTED NUMBER OF SMALL LIVESTOCK - RESIDENTIAL AND AGRICULTURAL ZONING DISTRICTS
Clarification Resulting from Proposed Small Livestock Ordinance Amendment Noted By ()*

	Zoning Districts (Parcel Sizes)					
	Residential			Agricultural		
	R-1, R-2, R-3 (All Parcels - No Size Limit)	R-A (Less Than One-Acre)	R-A (One-Acre or More)	A-2 UT (Less Than One-Acre)	A-2 UT (One-Acre or More)	A-2 (All Parcels- No Size Limit)
Chicken hens, Turkeys, Pigeons**, Rabbits, or Similar Fowl/Animals	Maximum 12	Maximum 12	Permitted - No Maximum	Maximum 12	Permitted - No Maximum	Permitted - No Maximum
Permanent Standard Beehive	Maximum 4	Maximum 4	Permitted - No Maximum	Maximum 4	Permitted - No Maximum	Permitted - No Maximum
Roosters, Quacking Ducks, Geese, Guinea Fowl, Peafowl, and Worms, or Similar Livestock***	Not Permitted*	Not Permitted*	Not Permitted*	Not Permitted*	Not Permitted*	Permitted - No Maximum

**The County Zoning Ordinance has historically been interpreted to allow for the keeping of zero roosters, quacking ducks, geese, guinea fowl, peafowl, and worms in all residential zoning districts and A-2 UT zoned parcels; however, in recent years, inconsistency in interpretation has ranged from permitting none of the listed animals to allowing for an unlimited number.*

***Other than Racing Homer Pigeons, as defined by Section 21.12.500 of the County Zoning Ordinance*

**** Proposed Ordinance Amendment amends reference to "similar livestock" to "any other small domestic animal determined by the Planning Director to have the potential to cause a nuisance."*

Zoning District Abbreviations:

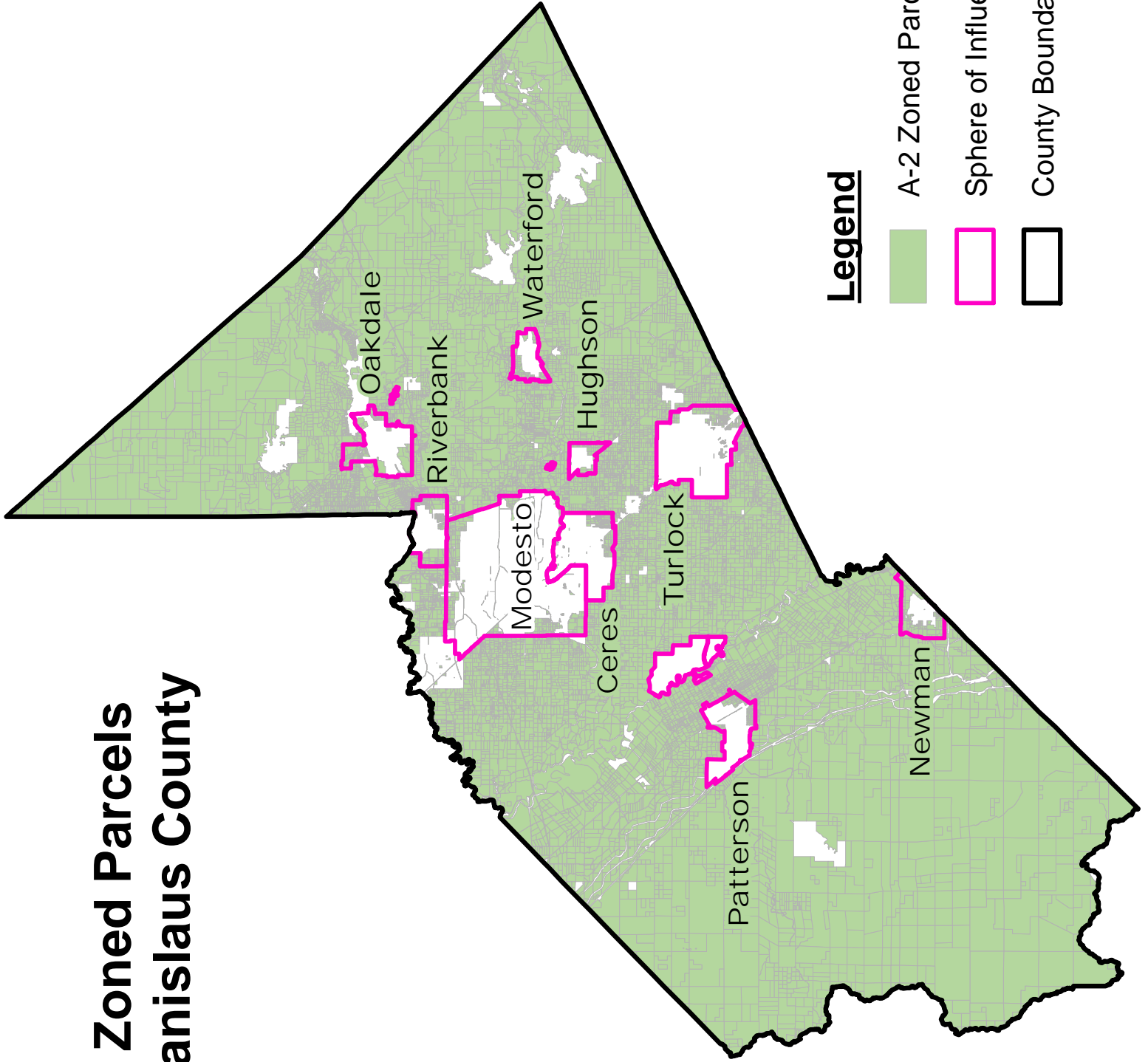
- R-1 = Single Family Residential
- R-2 = Medium Density Residential
- R-3 = Multiple-Family Residential
- R-A = Rural Residential
- A-2 = General Agriculture with a General Plan Designation of Agriculture
- A-2 UT = General Agriculture with a General Plan Designation of Urban Transition

October 17, 2017 - Board of Supervisors



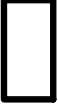
Attachment 6



A-2 Zoned Parcels in Stanislaus County



Legend

-  A-2 Zoned Parcel
-  Sphere of Influence (SOI)
-  County Boundary

City of Newman A-2 UT Zoned Parcels



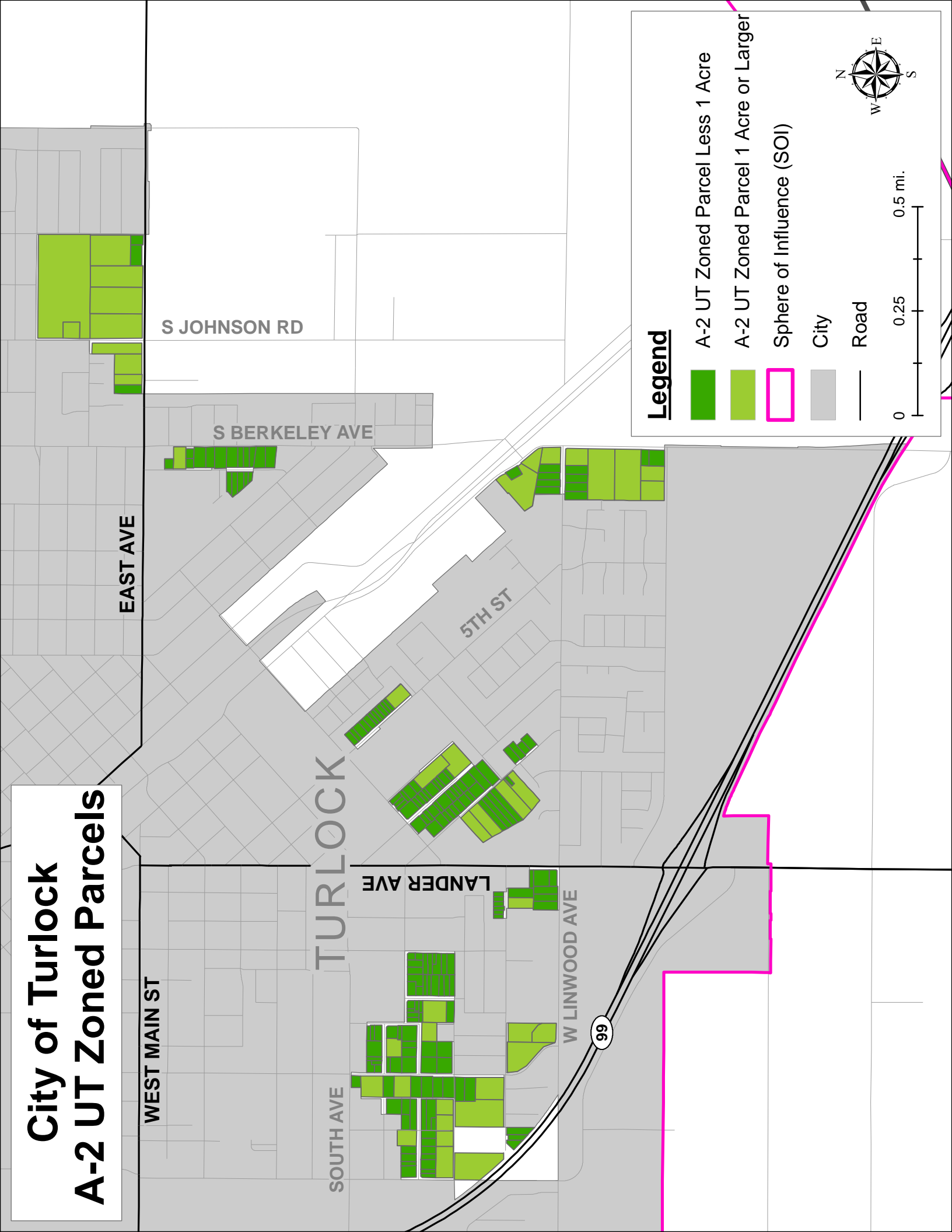
City of Patterson A-2 UT Zoned Parcels



Legend

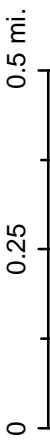
- A-2 UT Zoned Parcel Less 1 Acre
 - A-2 UT Zoned Parcel 1 Acre or Larger
 - Sphere of Influence (SOI)
 - City
 - Road
- 0 0.5 1 mi.

City of Turlock A-2 UT Zoned Parcels



Legend







- A-2 UT Zoned Parcel Less 1 Acre
- A-2 UT Zoned Parcel 1 Acre or Larger
- Sphere of Influence (SOI)
- City
- Road



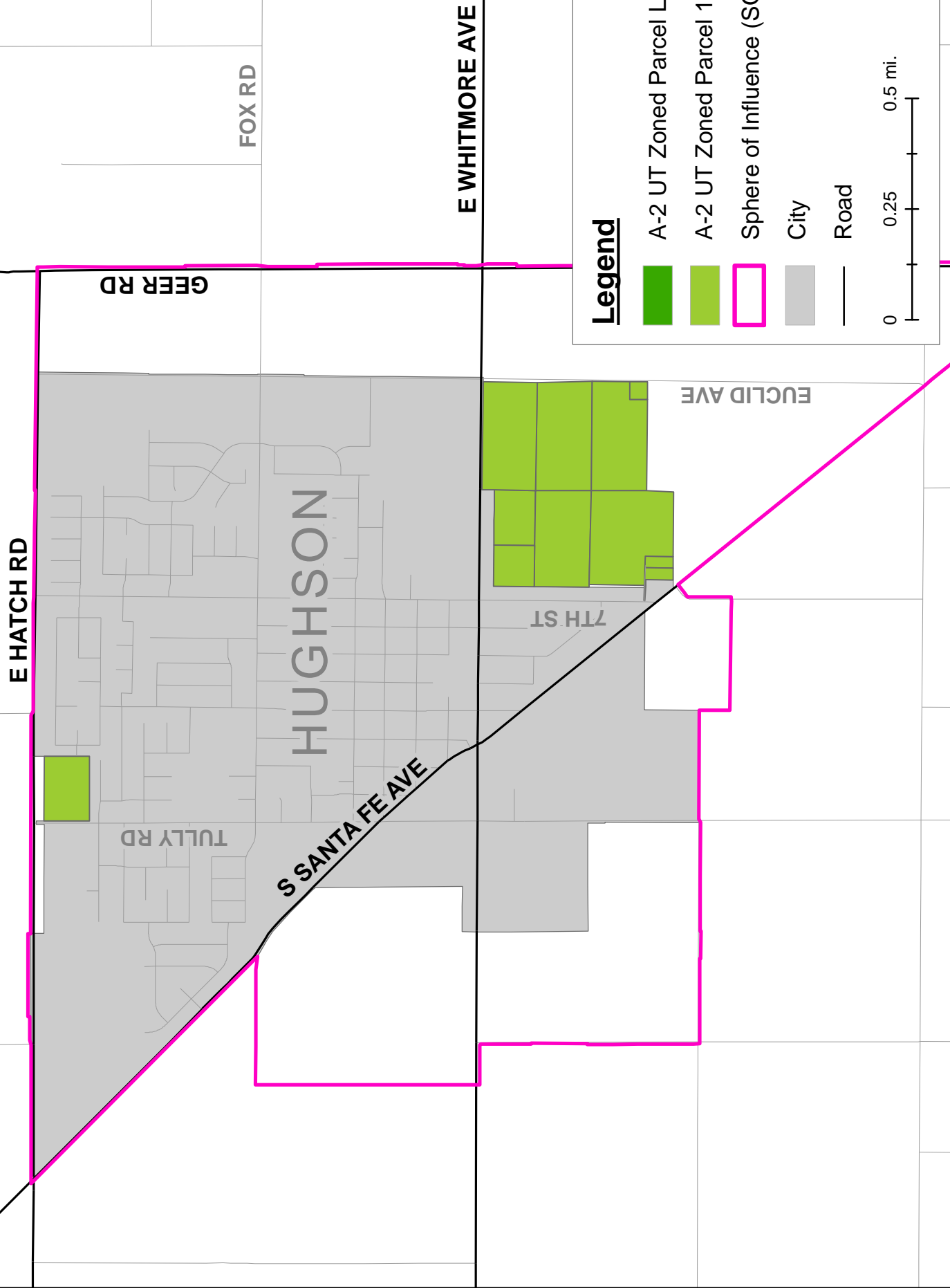
Turlock/Denair A-2 UT Zoned Parcels



Legend

-  A-2 UT Zoned Parcel Less 1 Acre
 -  A-2 UT Zoned Parcel 1 Acre or Larger
 -  Sphere of Influence (SOI)
 -  City
 -  Road
- 0 0.25 0.5 mi.
- 

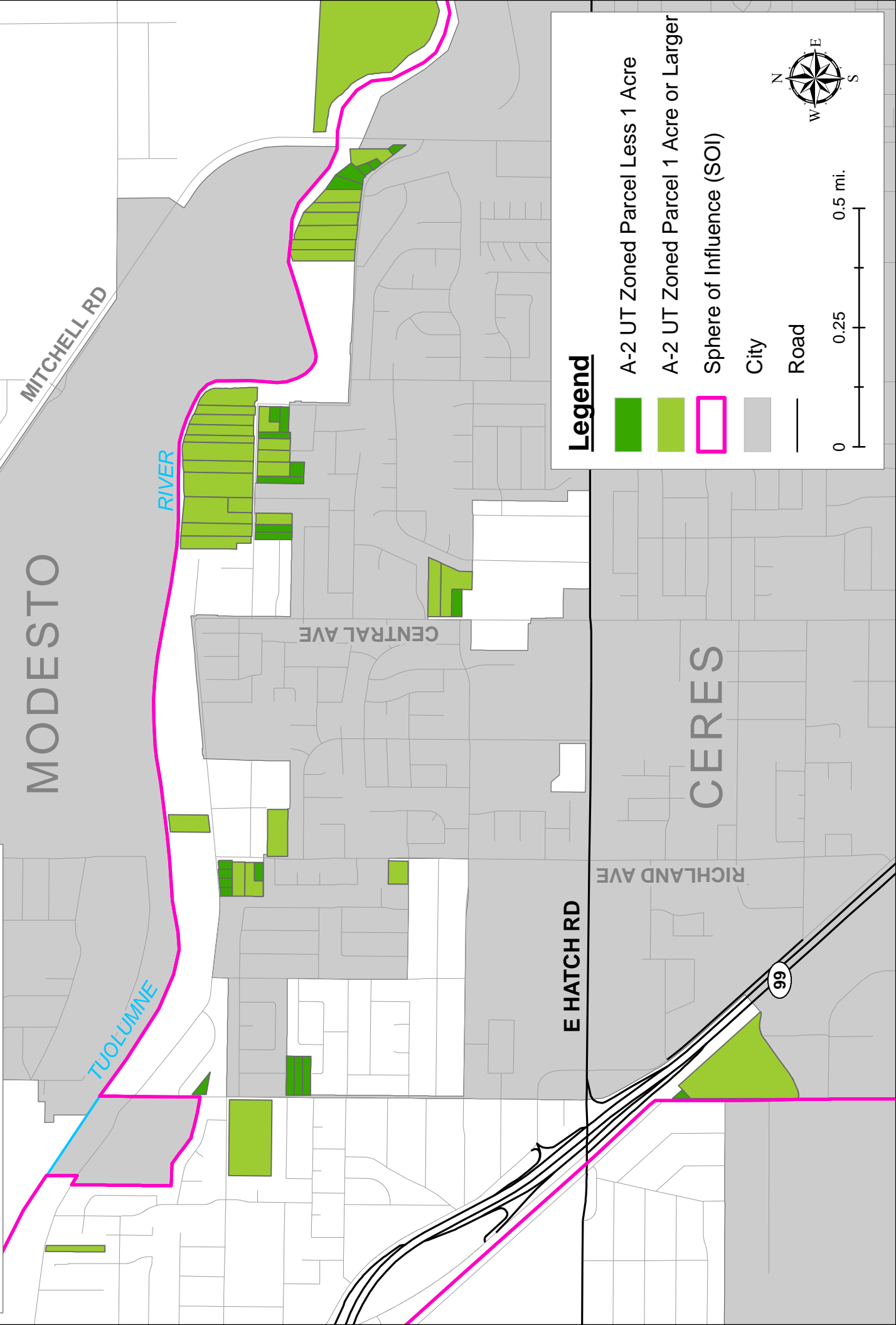
City of Hughson A-2 UT Zoned Parcels



Keyes Area A-2 UT Zoned Parcels



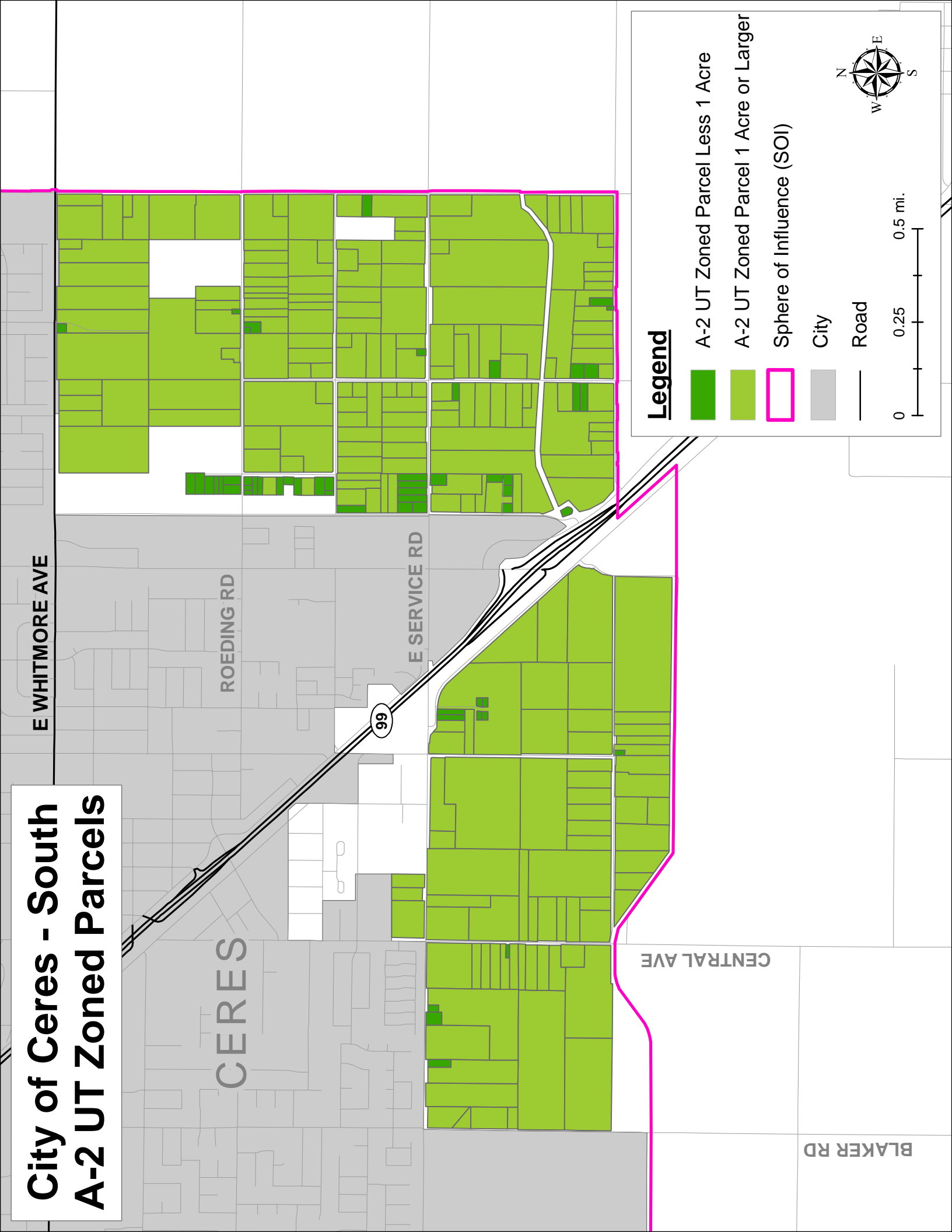
City of Ceres - North A-2 UT Zoned Parcels



Legend

- A-2 UT Zoned Parcel Less Than 1 Acre
 - A-2 UT Zoned Parcel 1 Acre or Larger
 - Sphere of Influence (SOI)
 - City
 - Road
- 0 0.25 0.5 mi.
-

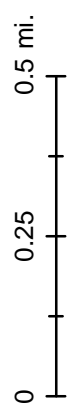
City of Ceres - South A-2 UT Zoned Parcels



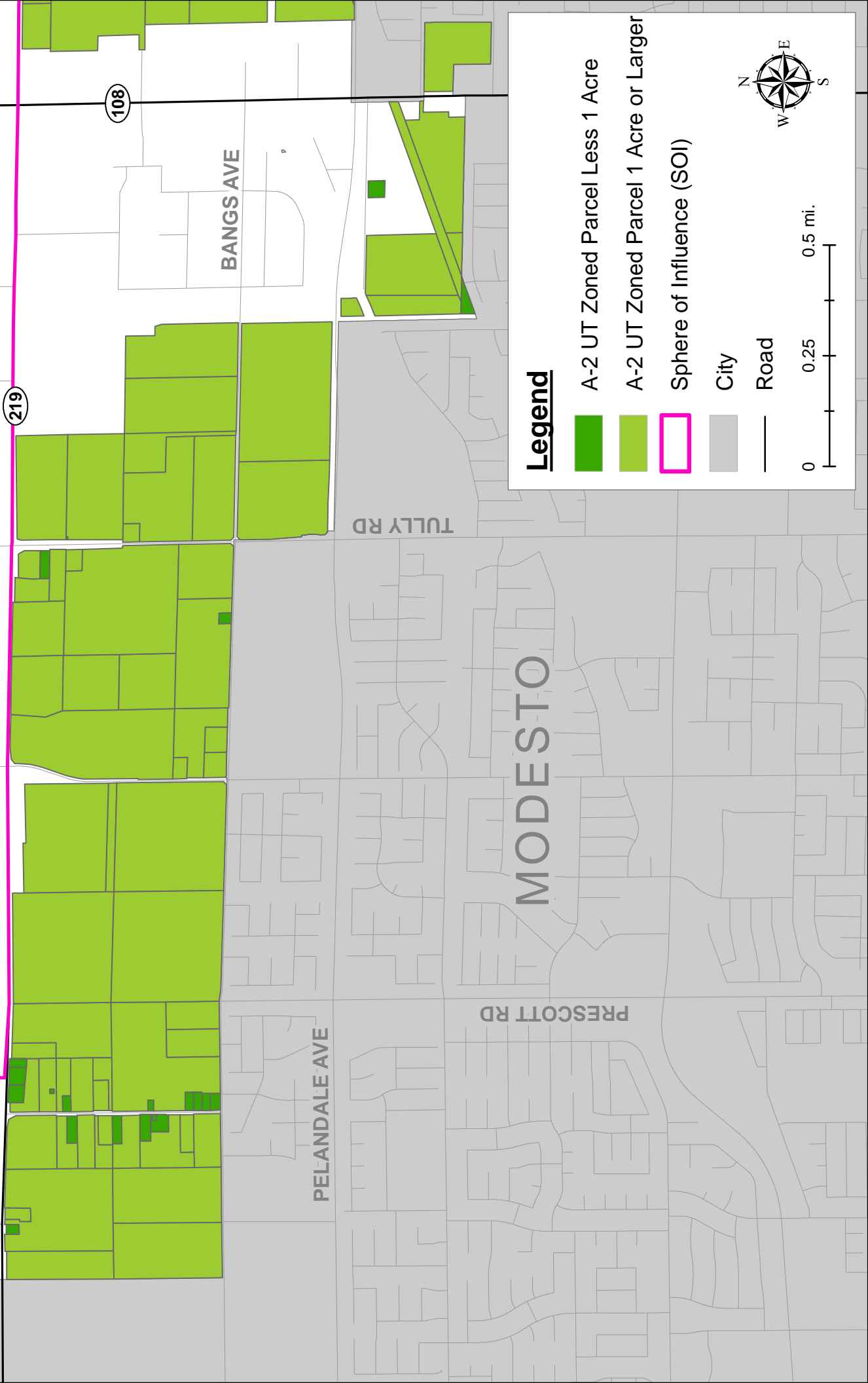
Legend

- A-2 UT Zoned Parcel Less 1 Acre
- A-2 UT Zoned Parcel 1 Acre or Larger
- Sphere of Influence (SOI)







- City
- Road



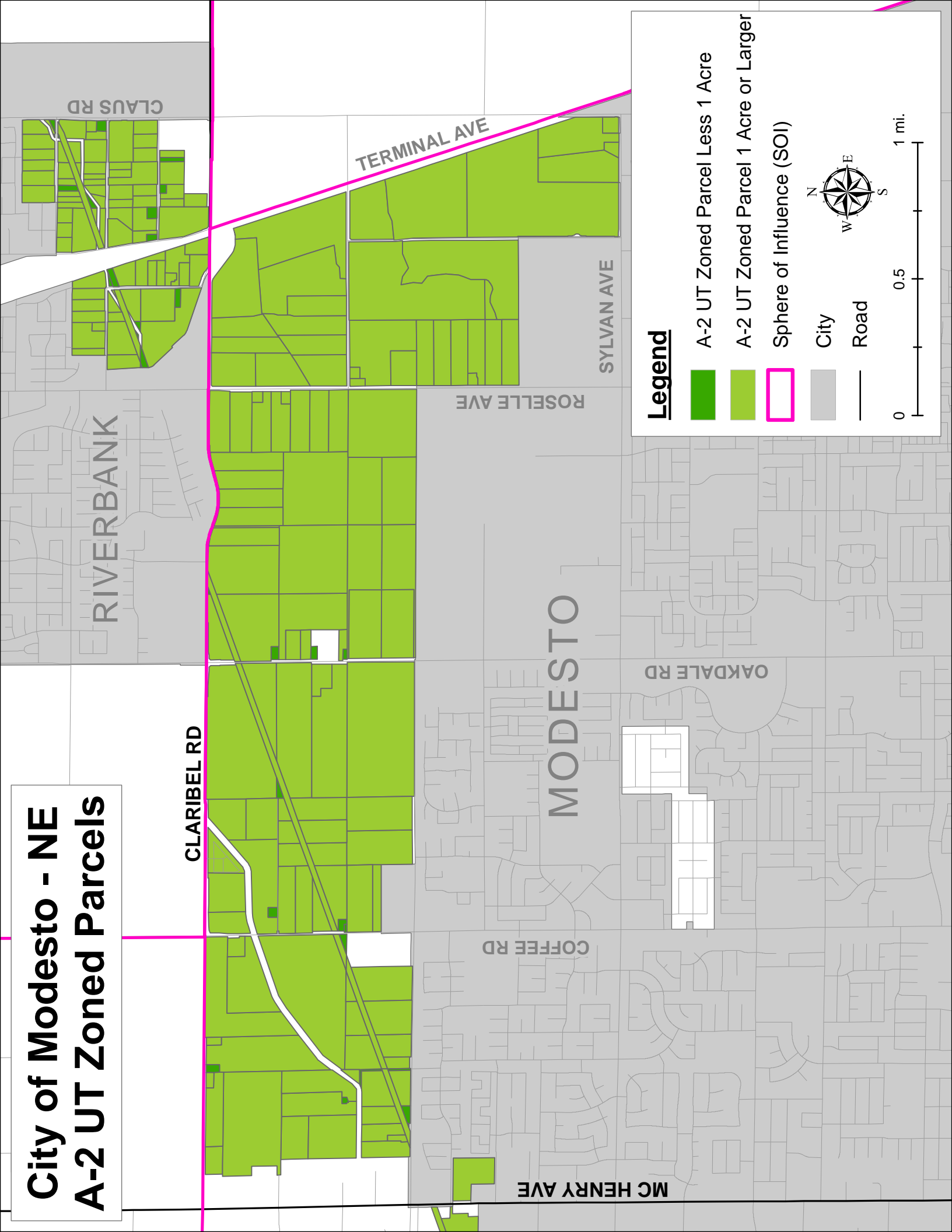
City of Modesto - NW A-2 UT Zoned Parcels



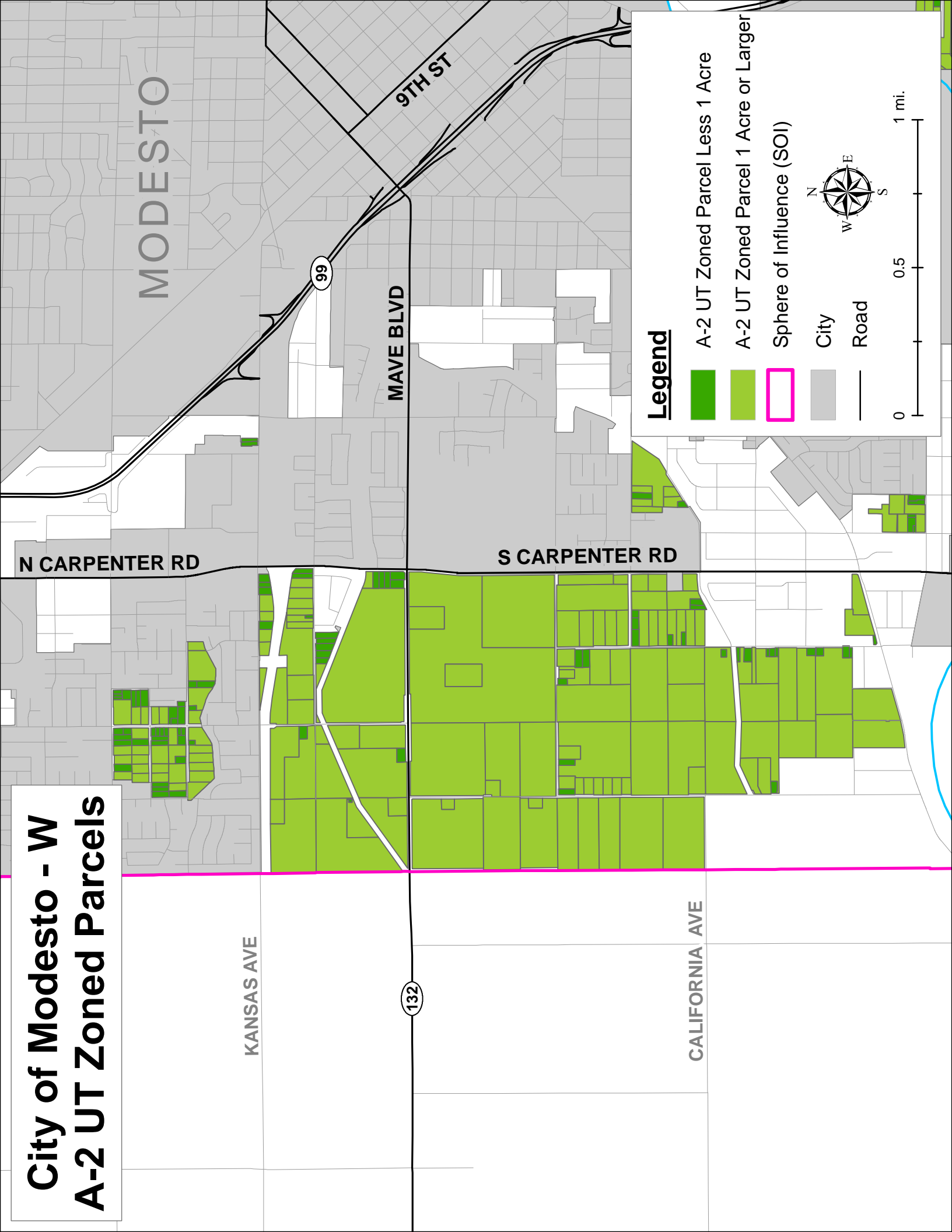
Legend

-  A-2 UT Zoned Parcel Less 1 Acre
 -  A-2 UT Zoned Parcel 1 Acre or Larger
 -  Sphere of Influence (SOI)
 -  City
 -  Road
- 0 0.25 0.5 mi.
- 

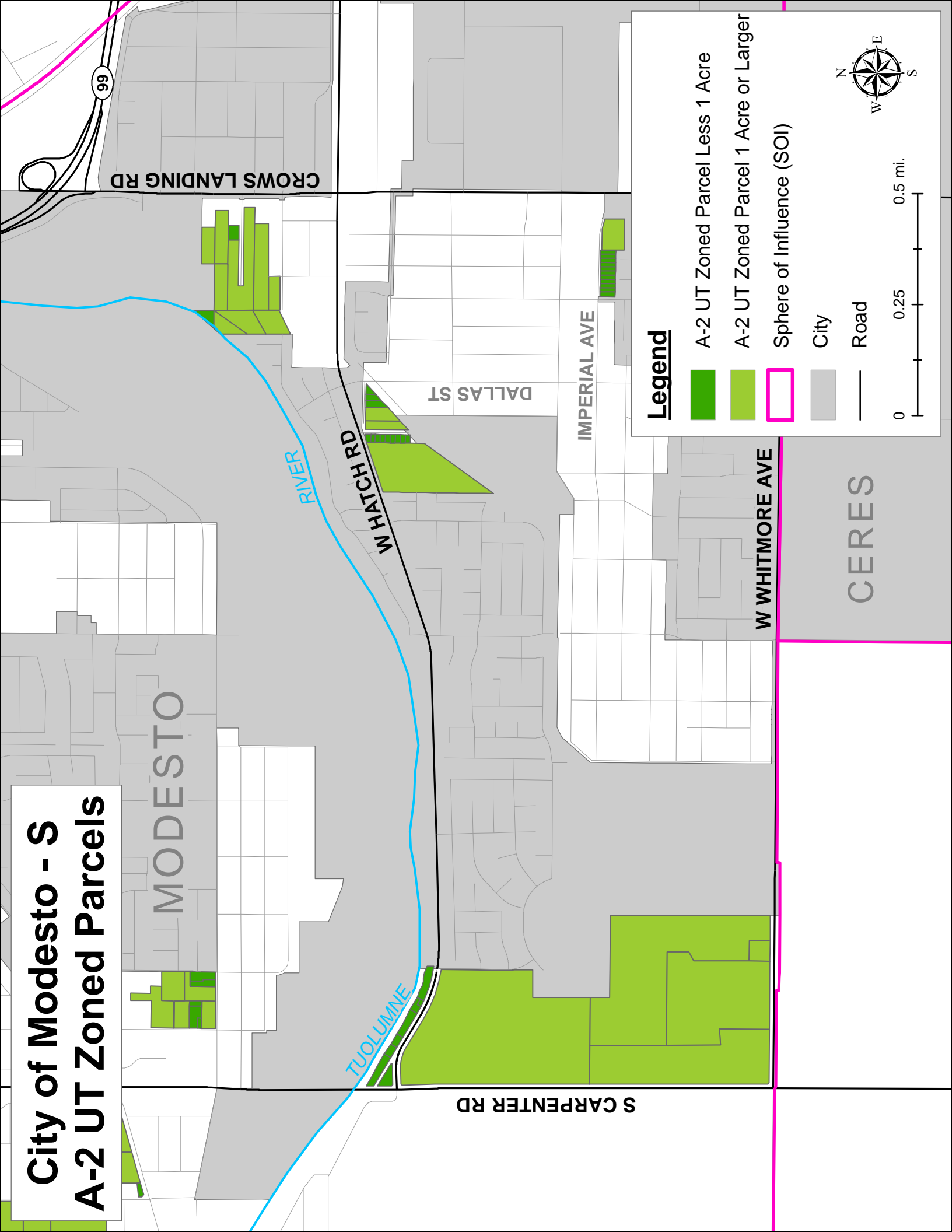
City of Modesto - NE A-2 UT Zoned Parcels



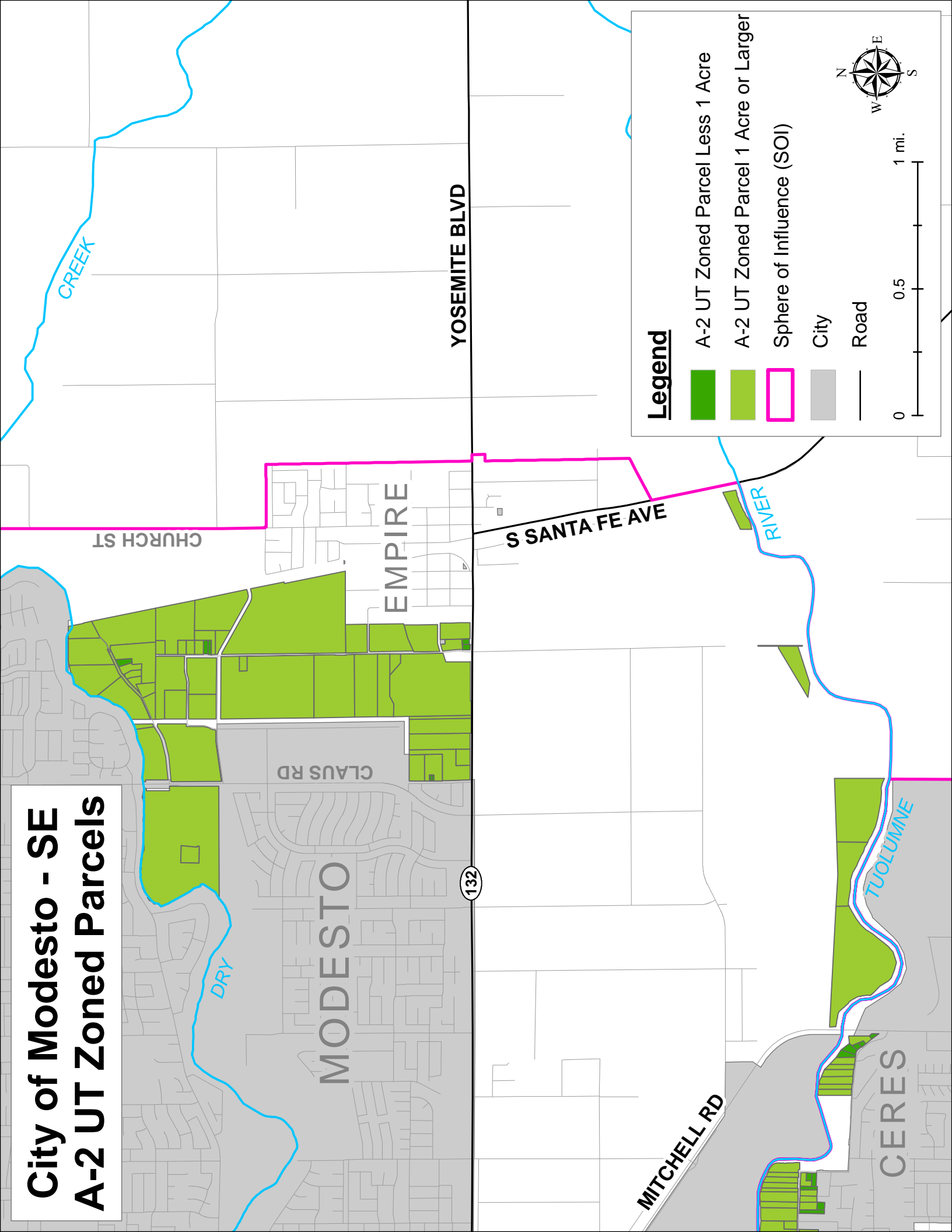
City of Modesto - W A-2 UT Zoned Parcels



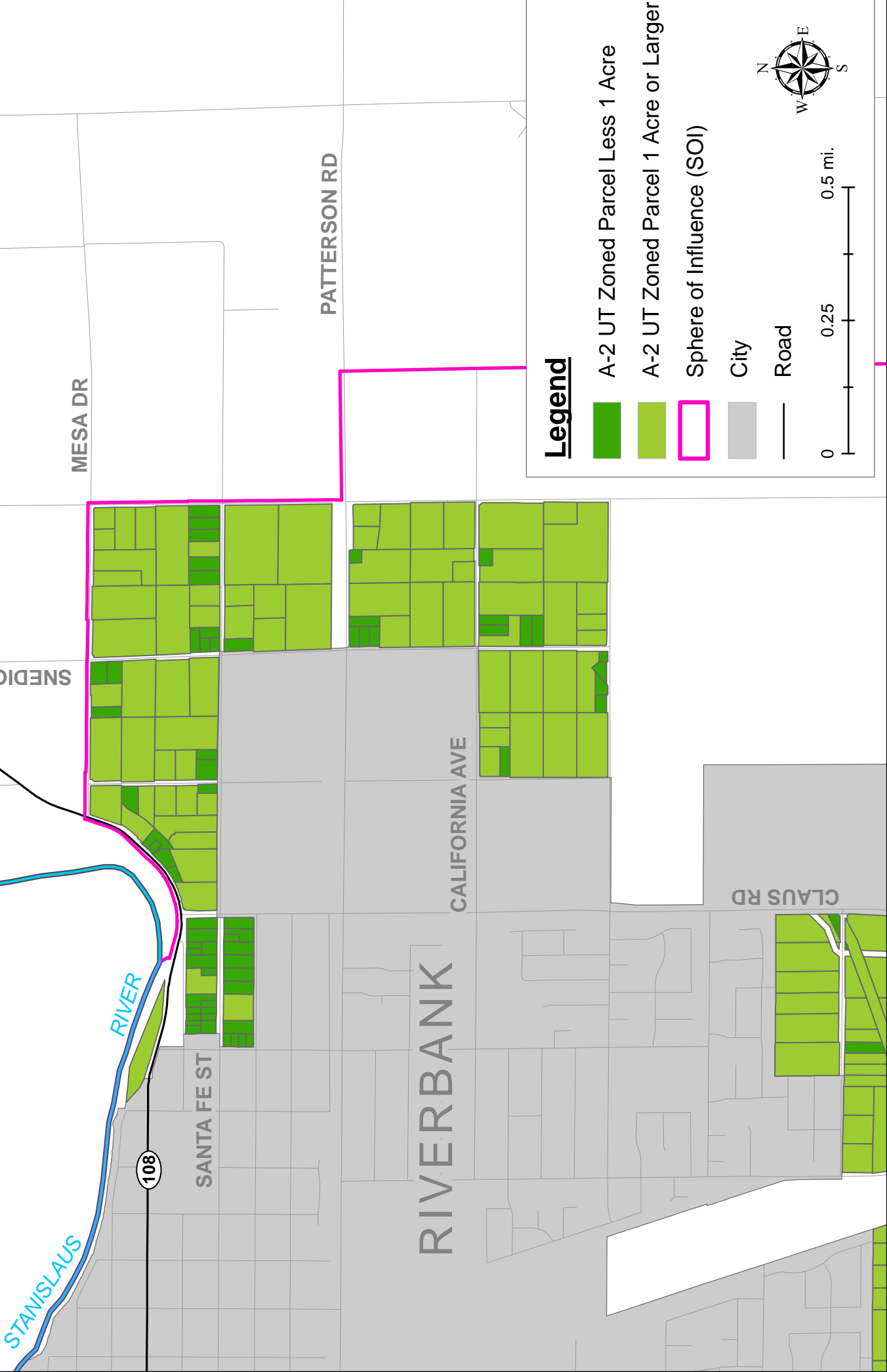
City of Modesto - S A-2 UT Zoned Parcels



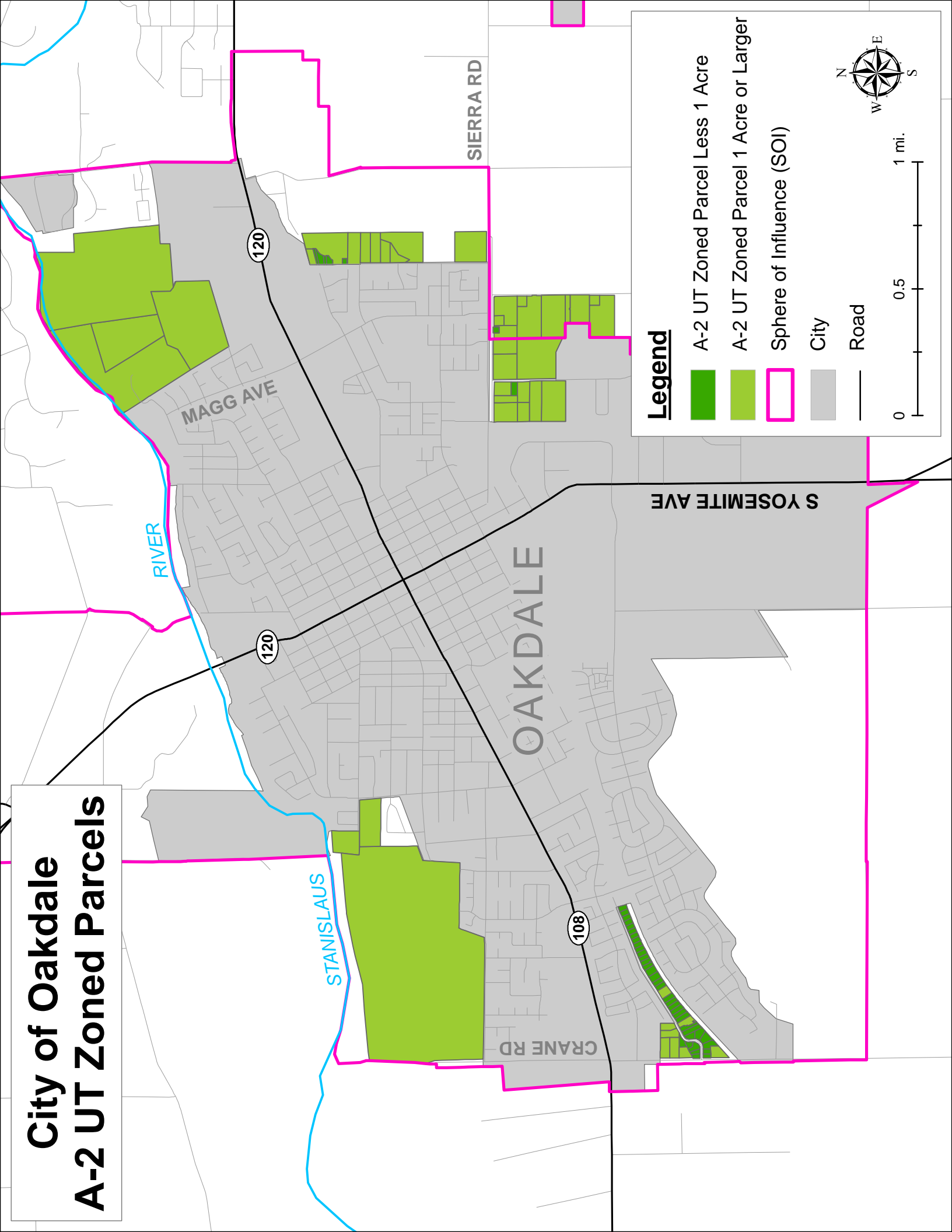
City of Modesto - SE A-2 UT Zoned Parcels



City of Riverbank A-2 UT Zoned Parcels



City of Oakdale A-2 UT Zoned Parcels



ORDINANCE NO. C.S. 1202

**AN ORDINANCE AMENDING TITLE 21 OF THE STANISLAUS COUNTY CODE
RELATING TO KEEPING OF ANIMALS REGULATED BY
SMALL LIVESTOCK FARMING**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA ORDAINS AS FOLLOWS:

Section 1. Section 21.12.530, of the Stanislaus County Code is amended to read as follows:

“21.12.530 SMALL LIVESTOCK FARMING

“Small livestock farming” means the raising or keeping of more than a combined total of twelve chicken hens, turkeys or twelve pigeons (other than defined in Section 21.12.500) or twelve similar fowl or twelve rabbits or twelve similar animals, or four permanent standard beehives. “Small livestock farming” as used in this title shall not allow for the keeping, in any quantity, of roosters, quacking duck, geese, guinea fowl, peafowl, worms (except for personal use), or any other small domestic animal determined by the Planning Director to have the potential to cause a nuisance. The keeping of animals in quantities less than described above is permitted in any district.”

Section 2. Section 21.24.020, Subdivision B, of the Stanislaus County Code is amended to read as follows:

“B. Small livestock farming, on parcels of one acre or more, but excluding hogs;”

Section 3. Section 21.24.080, Subdivision D, of the Stanislaus County Code is amended to read as follows:

“D. Buildings for Keeping Livestock or Poultry. Not less than fifty feet from any public street, measured from edge of pavement, nor less than forty feet from any adjacent property. (Ord. CS 663 §40, 1998; Ord. CS 106 §3, 1984).”

Section 4. Subparagraph (A)(1), of the Stanislaus County Code is added to Section 21.80.020 to read as follows:

“A. A lawful nonconforming use may be continued; provided, that no such use shall be enlarged or increased, nor be extended to occupy a greater area than that occupied by such use prior to the date the use became nonconforming, and that if any such use is abandoned, the subsequent use shall be in conformity to the regulations specified by this title for the district in which the land is located.

**DECLARATION OF PUBLICATION
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am a printer and Principal clerk of the publisher of THE MODESTO BEE, printed in the City of MODESTO, County of STANISLAUS, State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of STANISLAUS, State of California, Under the date of February 25, 1951, Action No. 46453; that the notice of which the annexed is a printed copy, has been published in each issue there of on the following dates, to wit:

Oct 27, 2017

I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at

MODESTO, California on

October 27th, 2017

(By Electronic Facsimile Signature)

Cynthia A. Williams

STANISLAUS COUNTY
ORDINANCE NO. C.S. 1202

AN ORDINANCE AMENDING TITLE 21 OF THE STANISLAUS COUNTY CODE RELATING TO KEEPING OF ANIMALS REGULATED BY SMALL LIVESTOCK FARMING THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA ORDAINS AS FOLLOWS:

Section 1. Section 21.12.530, of the Stanislaus County Code is amended to read as follows:

"21.12.530 SMALL LIVESTOCK FARMING

"Small livestock farming" means the raising or keeping of more than a combined total of twelve chicken hens, turkeys or twelve pigeons (other than defined in Section 21.12.500) or twelve similar fowl or twelve rabbits or twelve similar animals, or four permanent standard beehives. "Small livestock farming" as used in this title shall not allow for the keeping, in any quantity, of roosters, quacking duck, geese, guinea fowl, peafowl, worms (except for personal use), or any other small domestic animal determined by the Planning Director to have the potential to cause a nuisance. The keeping of animals in quantities less than described above is permitted in any district."

Section 2. Section 21.24.020, Subdivision B, of the Stanislaus County Code is amended to read as follows:

"B. Small livestock farming, on parcels of one acre or more, but excluding hogs;"

Section 3. Section 21.24.080, Subdivision D, of the Stanislaus County Code is amended to read as follows:

"D. Buildings for Keeping Livestock or Poultry. Not less than fifty feet from any public street, measured from edge of pavement, nor less than forty feet from any adjacent property. (Ord. CS 663 §40, 1998; Ord. CS 106 §3, 1984)."

Section 4. Subparagraph (A)(1), of the Stanislaus County Code is added to Section 21.60.020 to read as follows:

"A. A lawful nonconforming use may be continued; provided, that no such use shall be enlarged or increased, nor be extended to occupy a greater area than that occupied by such use prior to the date the use became nonconforming, and that if any such use is abandoned, the subsequent use shall be in conformity to the regulations specified by this title for the district in which the land is located.

1. The keeping of animals in quantities greater than permitted by this title shall not be subject to continuation."

Section 5. Enforcement of this ordinance shall not commence until six (6) months following its effective date, November 16, 2017, to allow those who, as of the date of enactment, own animals subject to this ordinance reasonable time to comply. Additional time to comply not exceeding six (6) months may be granted by Planning Commission upon application and a showing of good cause why additional time is required.

Upon motion of Supervisor Withrow, seconded by Supervisor Monteith the foregoing Ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 17th day of October, 2017, by the following-called vote: AYES: Supervisors: Olsen, Withrow, Monteith, DeMartini and Chairman Chiesa. NOES: None. ABSENT: None. /s/ Vito Chiesa, Chairman of the Board of Supervisors of the County of Stanislaus, State of California. ATTEST: ELIZABETH A. KING, Clerk of the Board of Supervisors of the County of Stanislaus,

State of California. By: Pam Villarreal, Deputy Clerk. APPROVED AS TO FORM: John P. Doering, County Counsel. By: Thomas E. Boze, Assistant County Counsel.

Pub Dates Oct 27, 2017

PROPOSED ORDINANCE AMENDMENT PLN2017-0055

SMALL LIVESTOCK FARMING

Board of Supervisors
October 17, 2017



Ordinance Amendment

Purpose

- To provide clarification of the Small Livestock Farming definition
- Applicable Zoning Districts
 - All Residential Zoning Districts
 - A-2 (General Agriculture) Zoning District with an Urban Transition designation



Small Livestock Farming

Animal Types

- Chicken hens, turkeys, pigeons, rabbits and similar fowl/animals
- Permanent standard beehives
- Roosters, quacking ducks, geese, guinea fowl, peafowl, worms, and similar livestock



Ordinance Amendment

Development

- Countywide “Rooster Regulation” aimed to deter illegal cockfighting considered, but not pursued
- Poultry breeders raised concerns with the impact of regulations to their ability to continue to raise and breed poultry



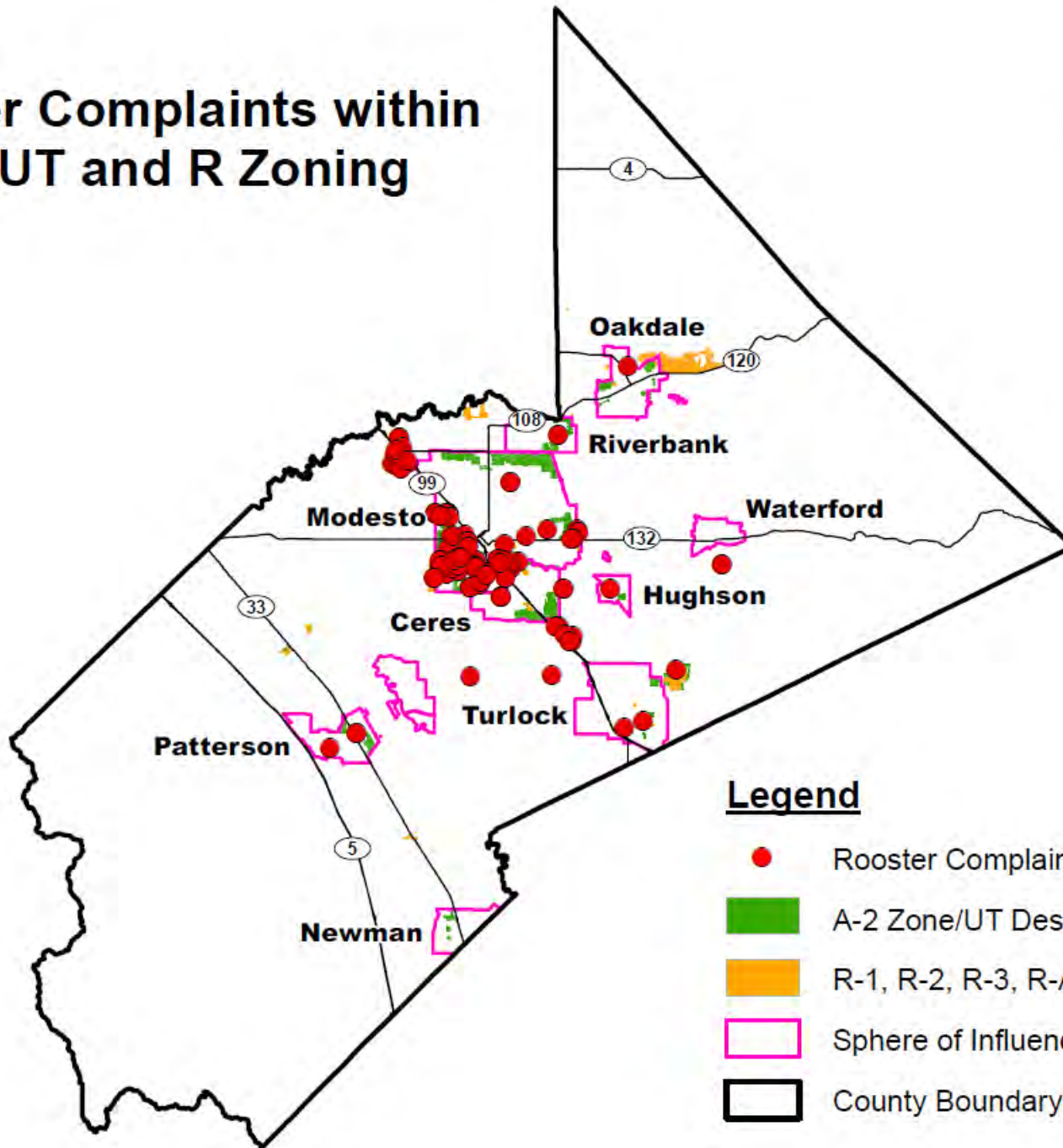
Rooster Complaints

January 1, 2014-June 22, 2017

- 157 rooster complaints (103 unduplicated)
 - 67% - R-1, R-2, R-3 (Single/Medium Density/Multi-family Residential)
 - 16% - R-A (Rural Residential)
 - 10% - Located in cities
 - 7% - A-2 (General Agriculture)



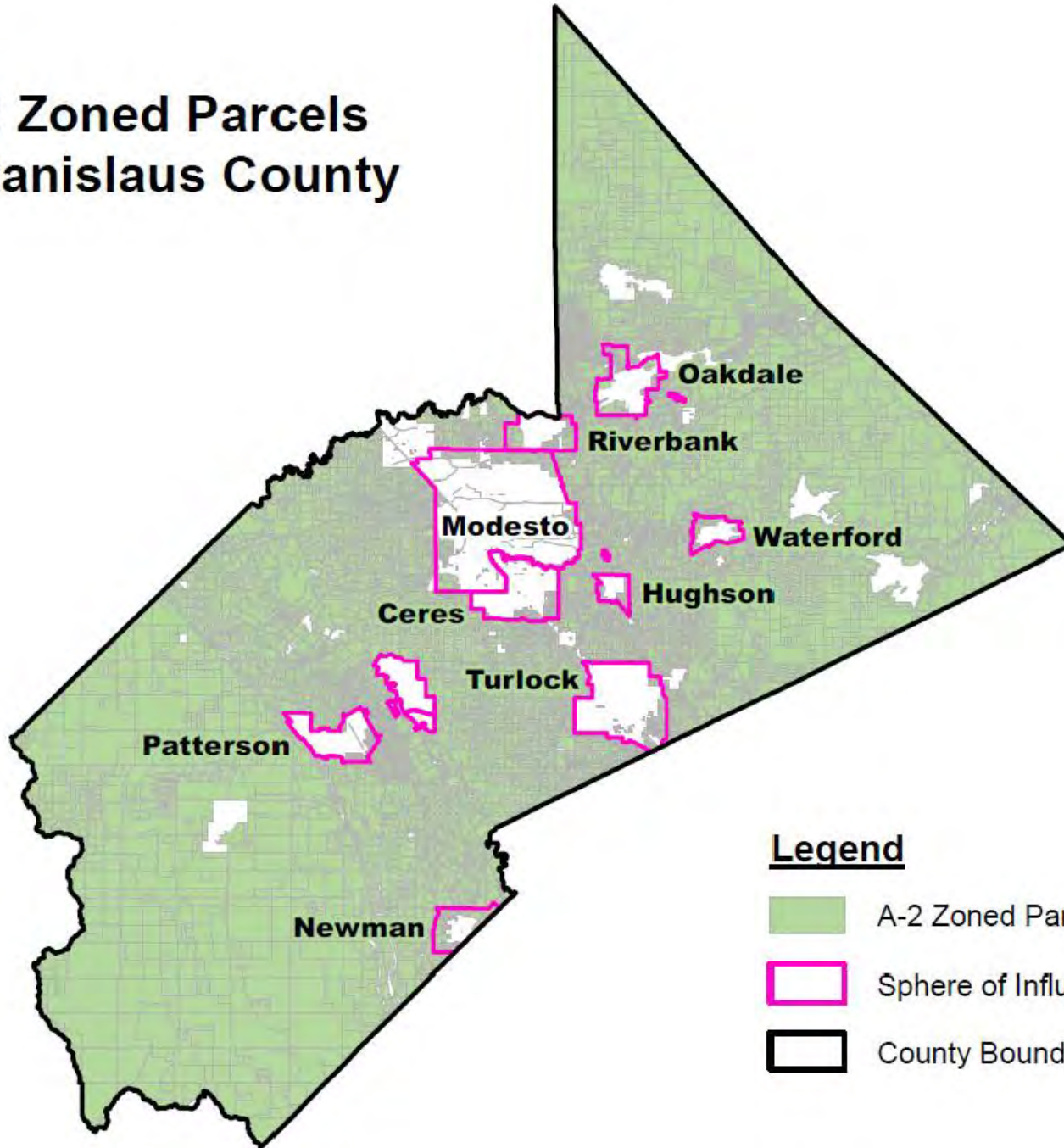
Rooster Complaints within A-2/UT and R Zoning






Legend

-  Rooster Complaint Location
-  A-2 Zone/UT Designation
-  R-1, R-2, R-3, R-A Designation
-  Sphere of Influence (SOI)
-  County Boundary

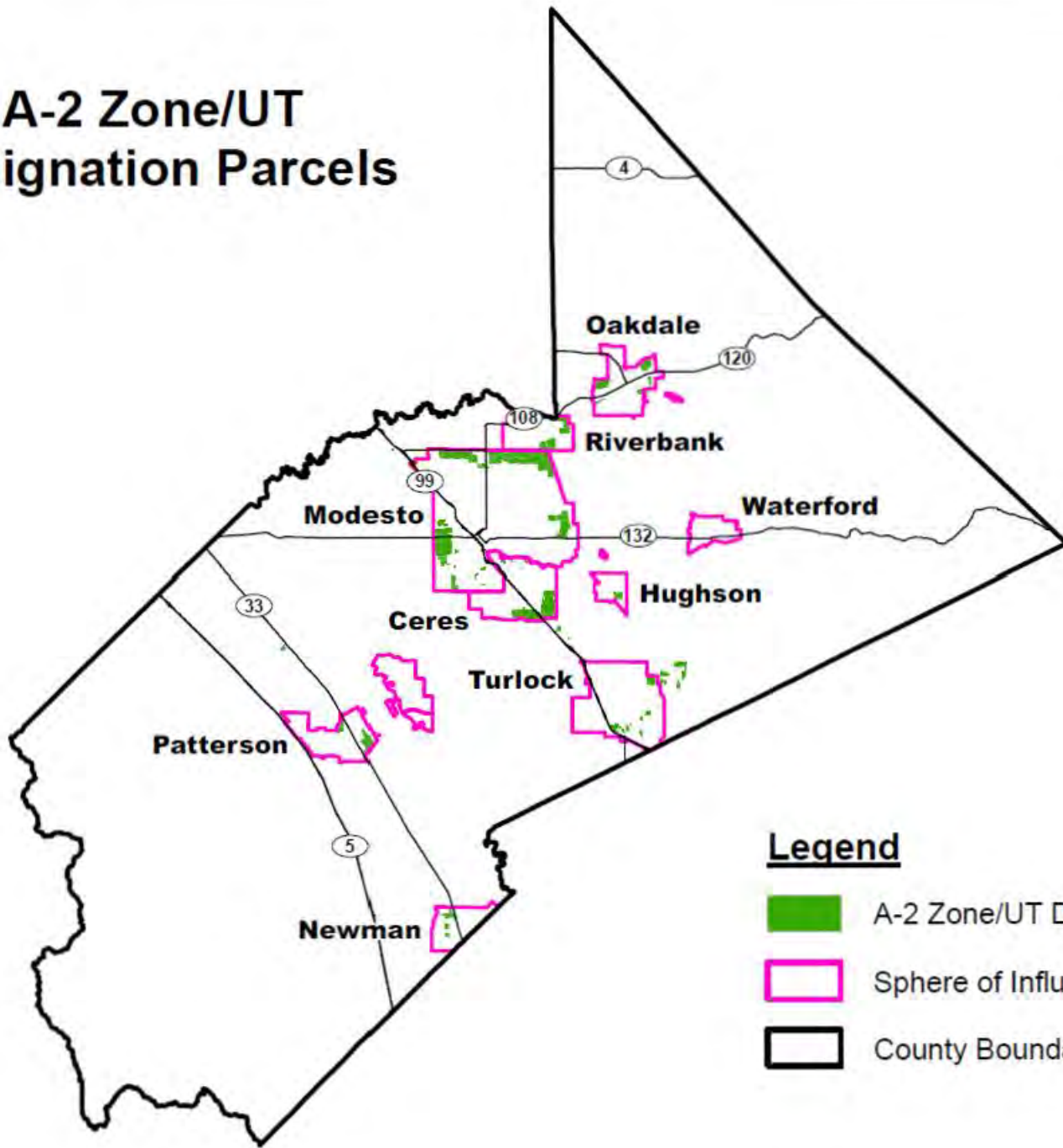
A-2 Zoned Parcels in Stanislaus County






Legend

-  A-2 Zoned Parcel
-  Sphere of Influence (SOI)
-  County Boundary

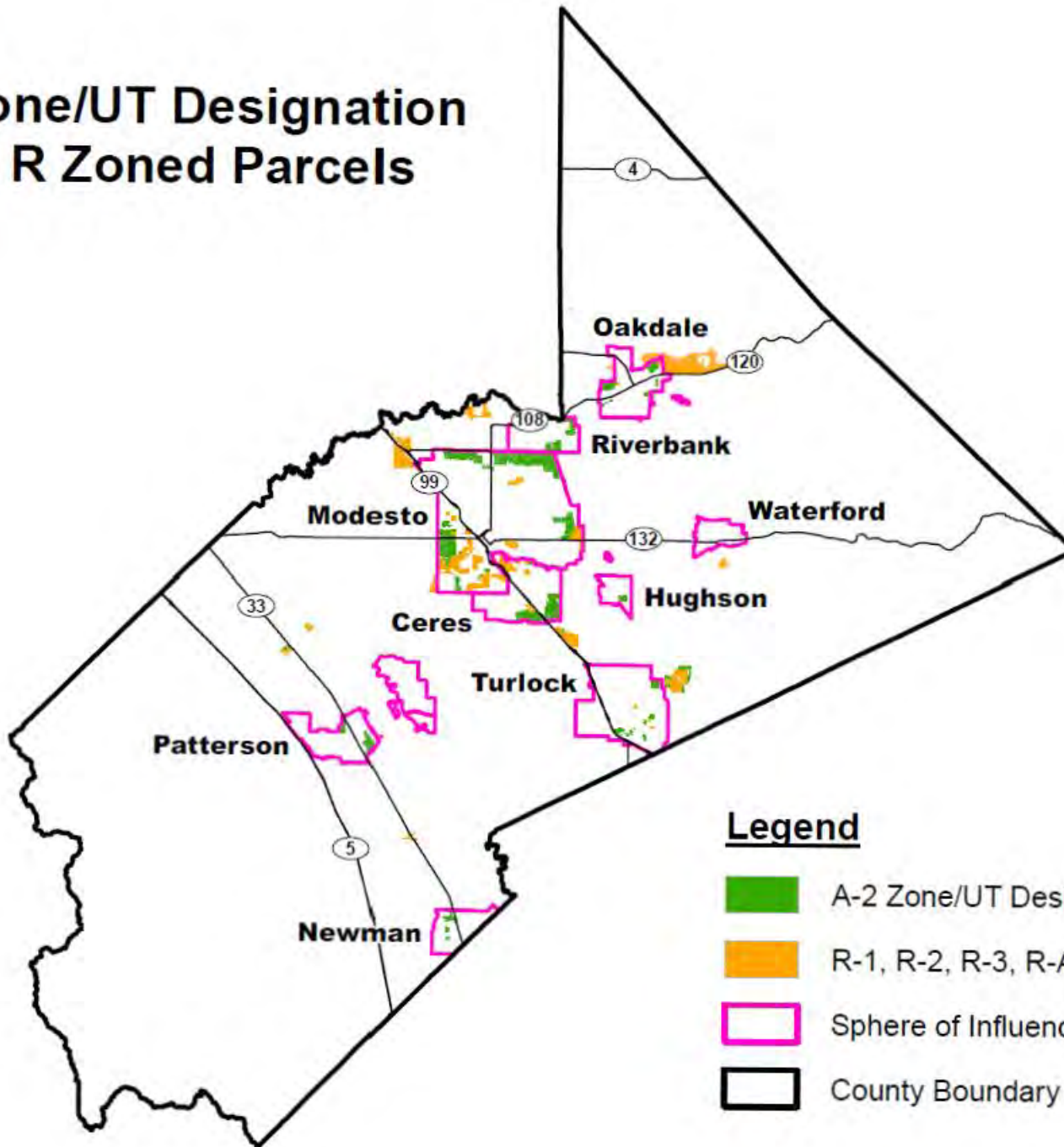
A-2 Zone/UT Designation Parcels



Legend

-  A-2 Zone/UT Designation
-  Sphere of Influence (SOI)
-  County Boundary

A-2 Zone/UT Designation and R Zoned Parcels



Permitted Ordinance with Evidence

Attachment 5 – BOS Report

	Zoning Districts (Parcel Sizes)		
	Residential		
	R-1, R-2, R-3 (All Parcels - No Size Limit)	R-A (Less Than One-Acre)	R-A (One-Acre or More)
Chicken hens, Turkeys, Pigeons**, Rabbits, or Similar Fowl/Animals	Maximum 12	Maximum 12	Permitted - No Maximum
Permanent Standard Beehive	Maximum 4	Maximum 4	Permitted - No Maximum
Roosters, Quacking Ducks, Geese, Guinea Fowl, Peafowl, Worms, or Similar Livestock***	Not Permitted*	Not Permitted*	Not Permitted*



Permitted Ordinance with Evidence

Attachment 5 – BOS Report

	Zoning Districts (Parcel Sizes)		
	Agricultural		
	A-2 UT (Less Than One-Acre)	A-2 UT (One-Acre or More)	A-2 (All Parcels- No Size Limit)
Chicken hens, Turkeys, Pigeons**, Rabbits, or Similar Fowl/Animals	Maximum 12	Permitted - No Maximum	Permitted - No Maximum
Permanent Standard Beehive	Maximum 4	Permitted - No Maximum	Permitted - No Maximum
Roosters, Quacking Ducks, Geese, Guinea Fowl, Peafowl, and Worms, or Similar Livestock***	Not Permitted*	Not Permitted*	Permitted - No Maximum



Small Livestock Farming

Section 21.12.530 Definition

- Clarify that the number of animals permitted is “a combined total of” individual animals and not animal types
- Clarify which animal are not allowed to be kept, in any quantity
 - Including any other small domestic animal determined by the Planning Director to have the potential to cause a nuisance



Chapter 21.24 - Rural Residential

R-A Zoning District

- Remove the exclusion of turkeys
- Add “pens, coops, cages, or similar housing” to the existing setback for buildings used for the keeping of animals
- Clarify that the setback from public streets is to be measured from edge of pavement
- Delete the setback requirement for on-site buildings used for human occupancy



Chapter 21.80 - Nonconforming Uses

- Clarify that the keeping of animals in quantities greater than permitted shall not be subject to continuation as a nonconforming use



Staff Recommended Revisions

Post-Planning Commission

- Exclude “pens, coops, cages, or similar housing used” from the amendment to 21.24.080(D) – R-A Zoning District
- Exclude “except for commercial dairy, poultry, or hog operations” from the amendment to 21.80.020 – Nonconforming Uses



Enforcement Grace Period

- Enforcement shall not commence until six months following the effective date of the ordinance - November 16, 2017
- Addition time to comply, not to exceed six months, may be granted by the Planning Commission upon application showing good cause



Ordinance Amendment

Support

- Rooster noise
- Safety concerns associated with illegal rooster fighting activities occurring in the neighborhood
- Inhumane treatment of roosters
- Impact the keeping of roosters has on the quality of life of surrounding neighbors



Ordinance Amendment *Opposition*

- Unconstitutional
- Infringing on property rights
- Rooster are a small % of all complaints
- Right to Farm & Noise Standards
- Setbacks are a “taking”
- Planning Director “dictatorial power”



Ordinance Amendment

Purpose and Need

- No new restrictions on the number of small livestock permitted to be kept
- Clarification based of the County's historical interpretation
- Without amendment, the keeping of an unlimited number of roosters, and other nuisance type animals, could be interpreted as being permitted.



Planning Commission *Recommendation*

- Planning Commission on a 7-0 vote has recommended approval of the proposed ordinance amendment.



Staff Recommendation

Approval as recommended by the Planning Commission, with the exclusion of certain amendments:

- Section 21.24.080(A) – housing types
- Section 21.80.020 – commercial operations

As outlined in recommendations 1-6 of the Board Report



Questions

