



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:

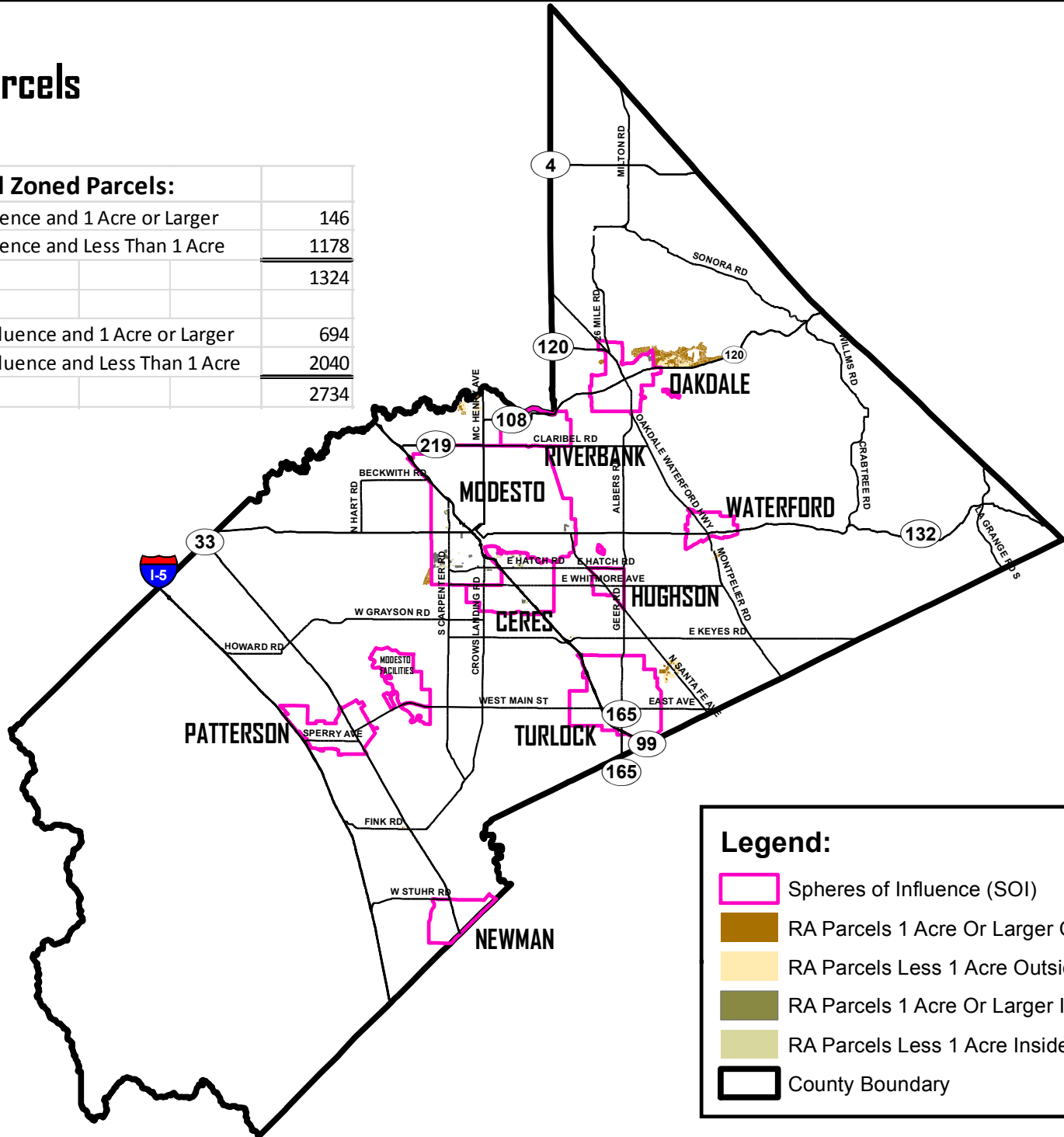
- D. Buildings, **pens, coops, cages, or similar housing used** for Keeping Livestock or Poultry. Not less than fifty feet from any public street, **measured from edge of pavement,** nor less than forty feet from ~~any window or door of any building used for human occupancy or~~ any adjacent property

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

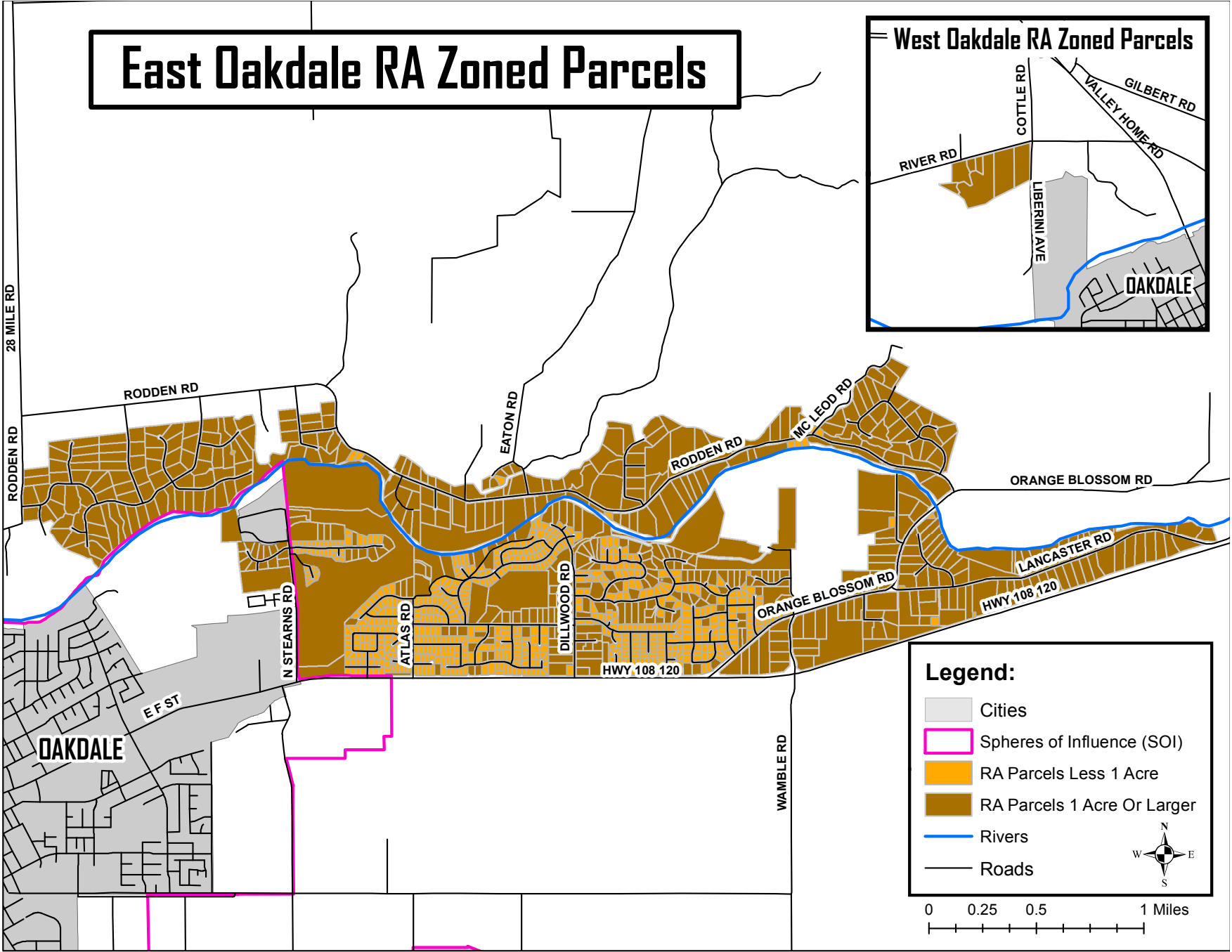
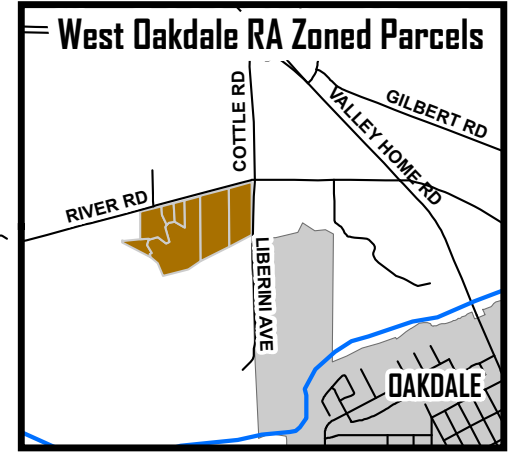
Rural Residential Zoned Parcels:	
Inside Sphere of Influence and 1 Acre or Larger	146
Inside Sphere of Influence and Less Than 1 Acre	1178
	1324
Outside Sphere of Influence and 1 Acre or Larger	694
Outside Sphere of Influence and Less Than 1 Acre	2040
	2734



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



Legend:

- 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

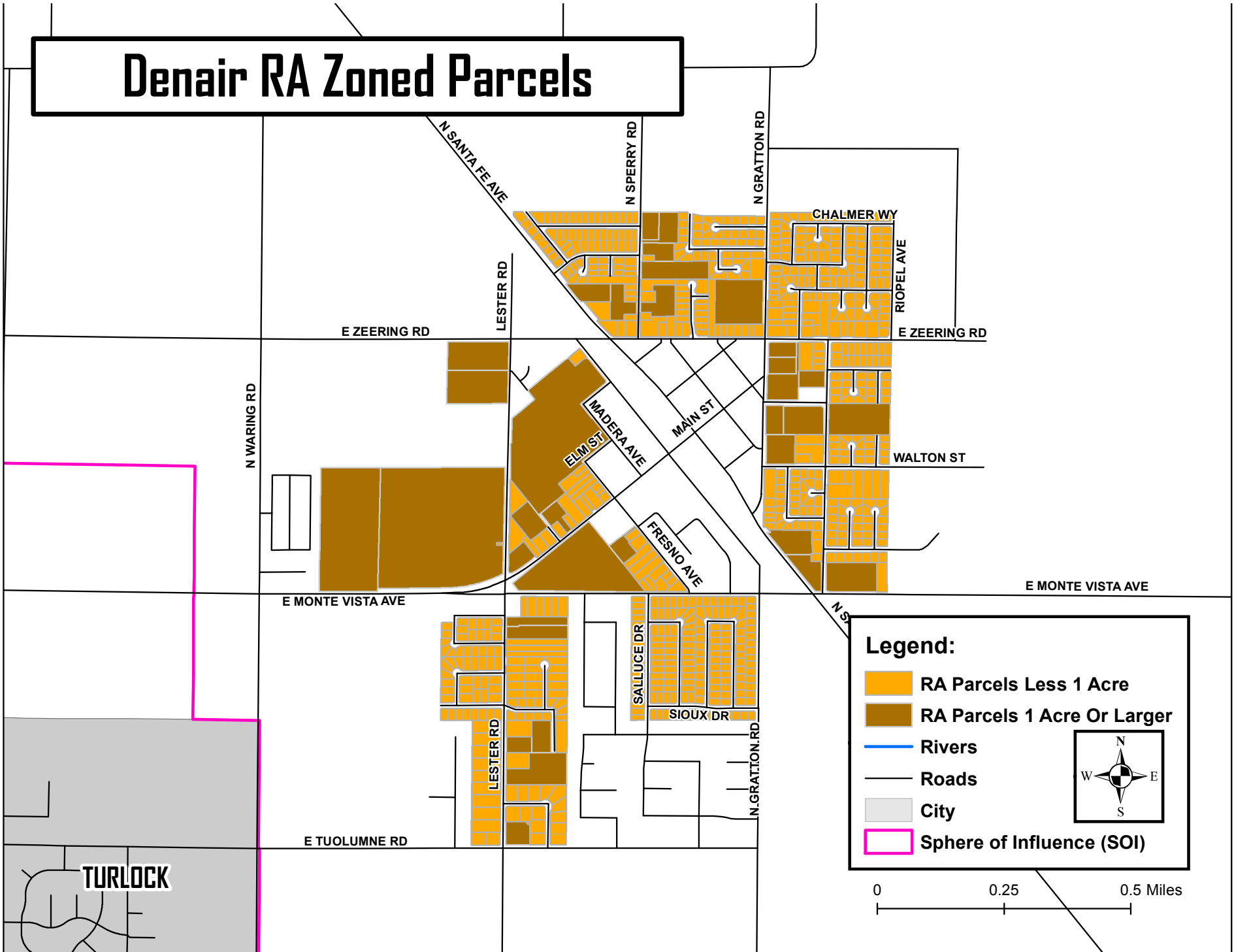


EXHIBIT C-2

West Modesto, South of California Ave. RA Zoned Parcels

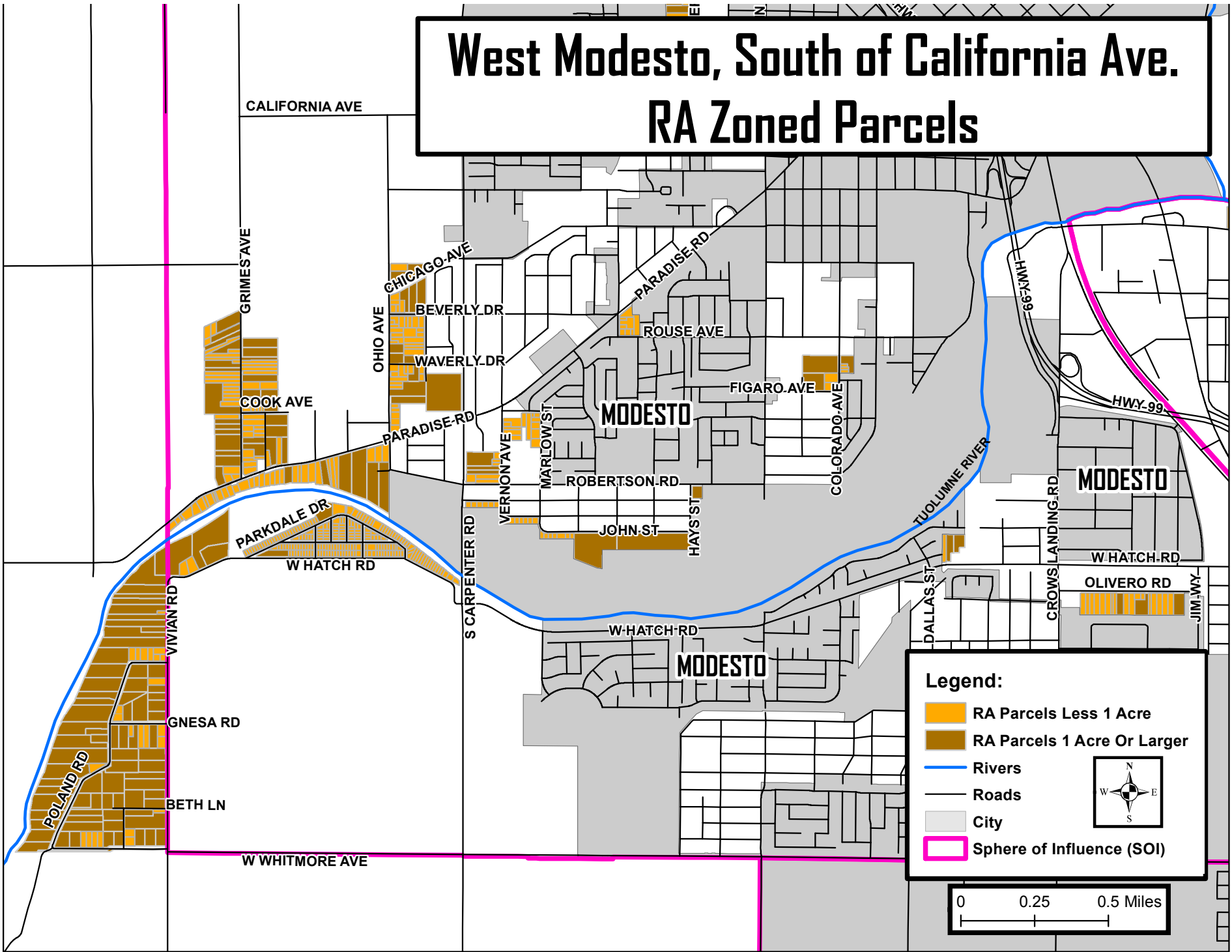
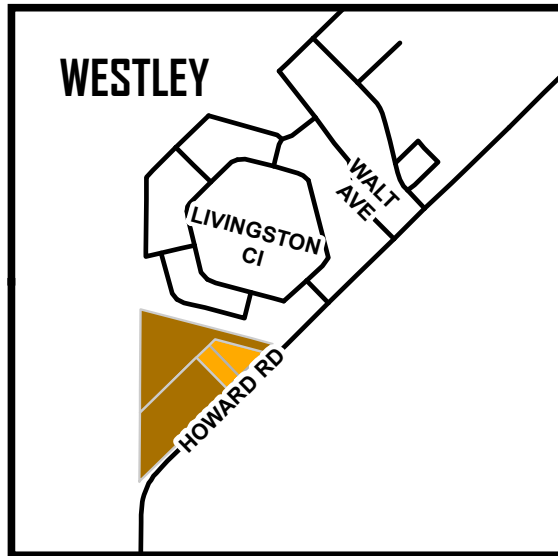
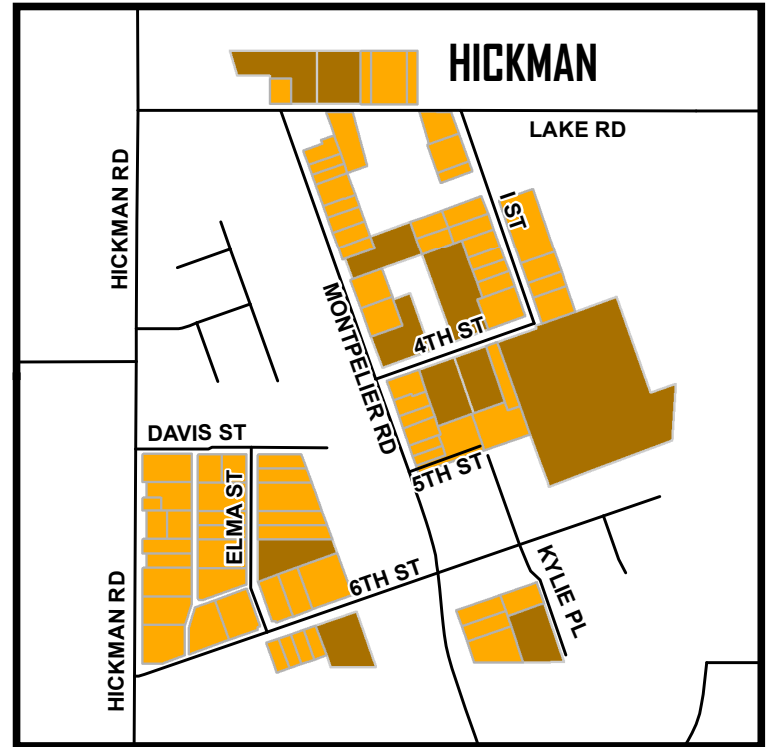
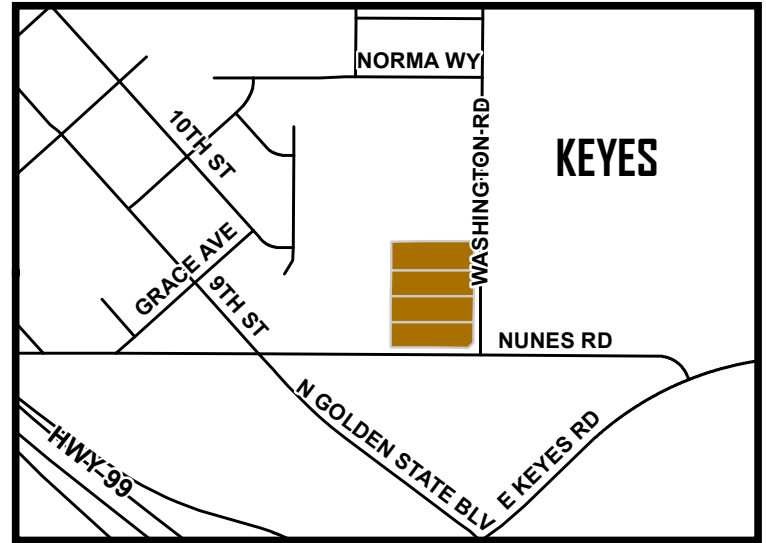
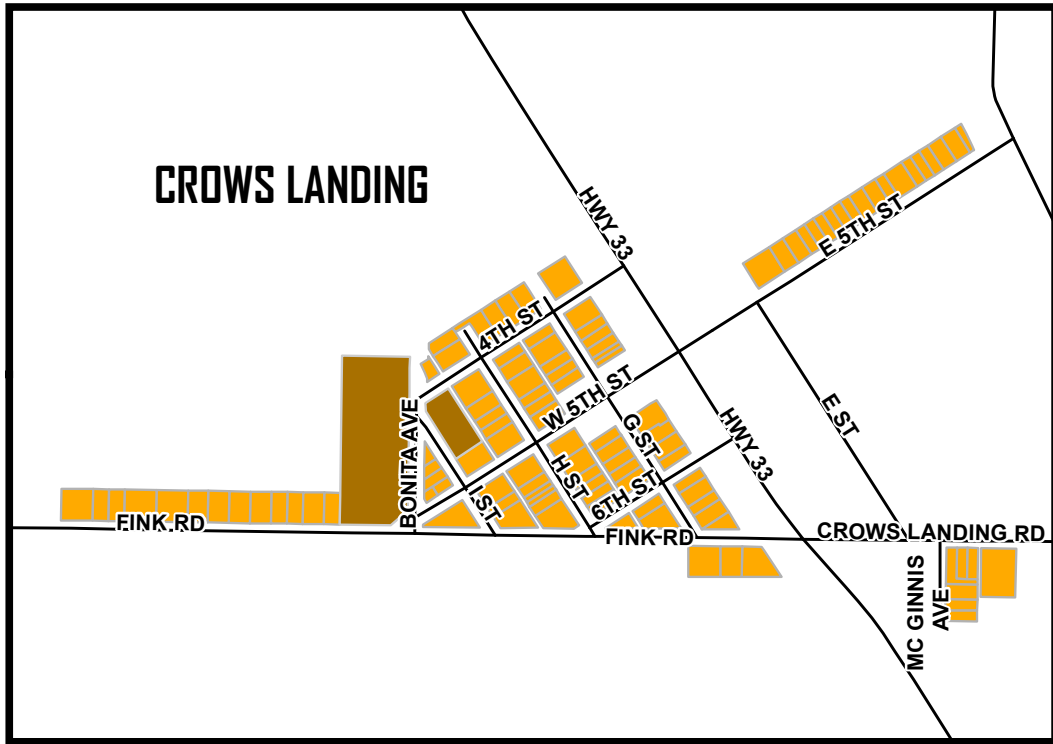


EXHIBIT C- 3

Legend:

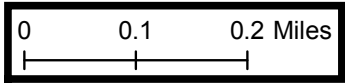
- RA Parcels Less 1 Acre
- RA Parcels 1 Acre Or Larger
- Rivers
- Roads
- City
- Sphere of Influence (SOI)

0 0.25 0.5 Miles

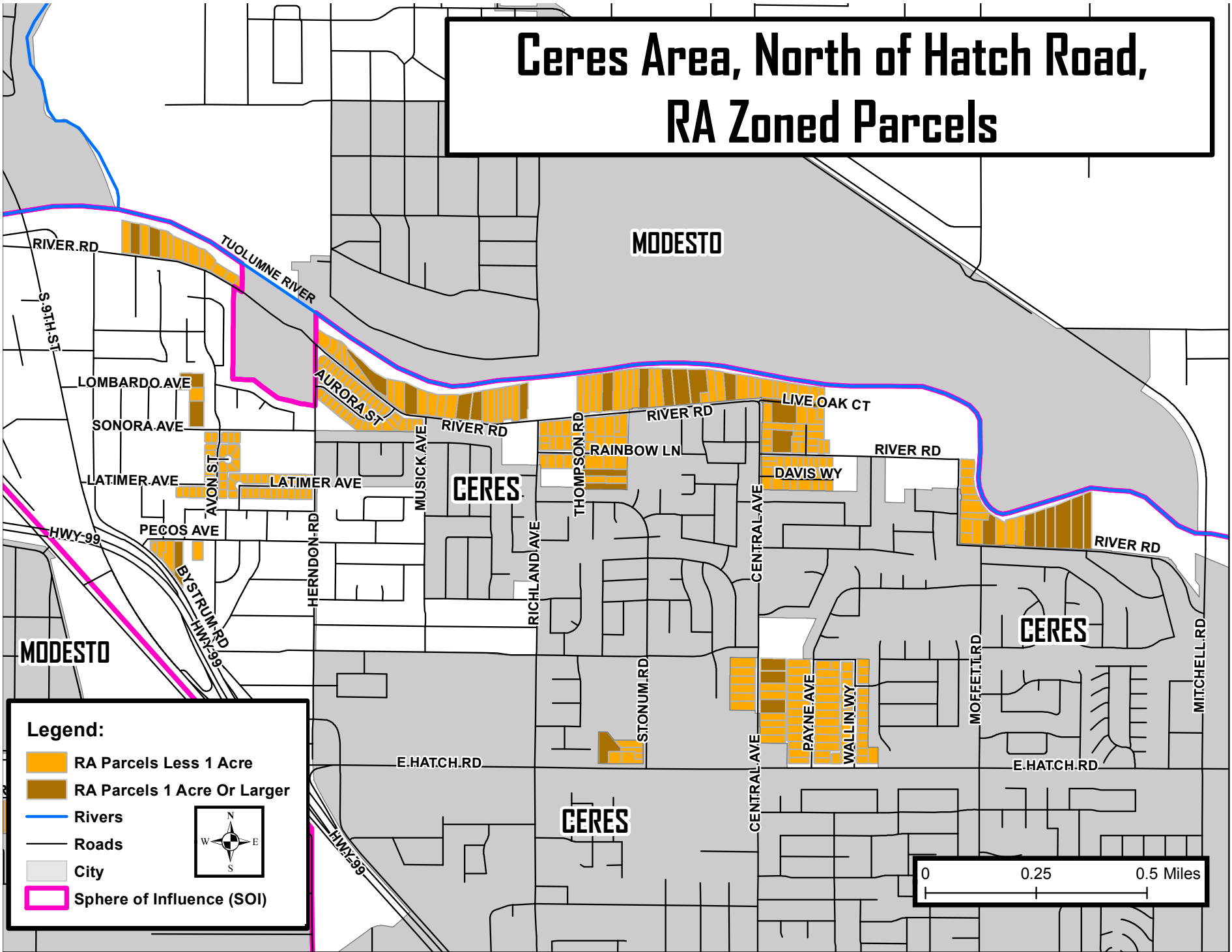


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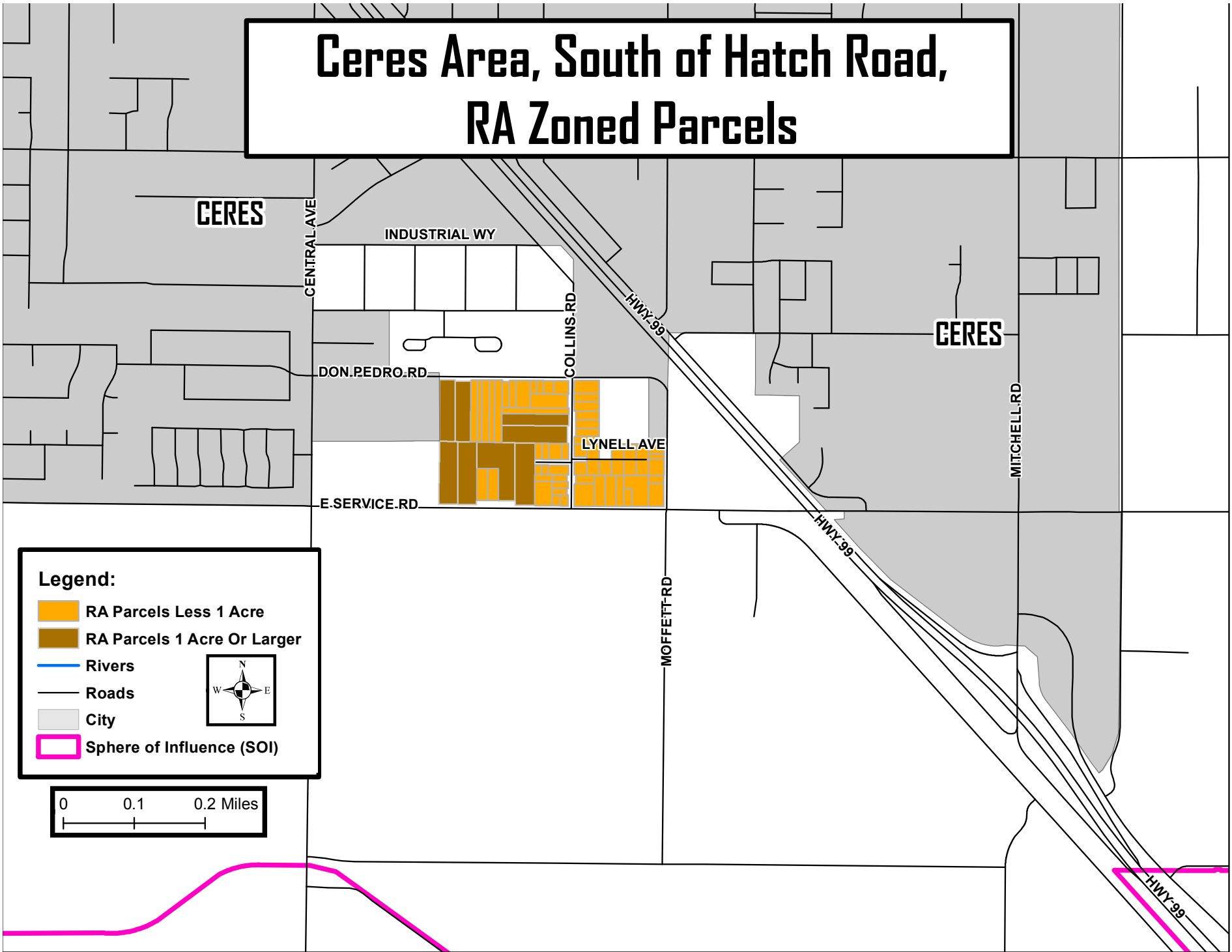
- RA Parcels Less 1 Acre
- RA Parcels 1 Acre Or Larger
- Rivers
- Roads
- City
- Sphere of Influence (SOI)



Ceres Area, North of Hatch Road, RA Zoned Parcels



Ceres Area, South of Hatch Road, RA Zoned Parcels



Riverbank RA Zoned Parcels

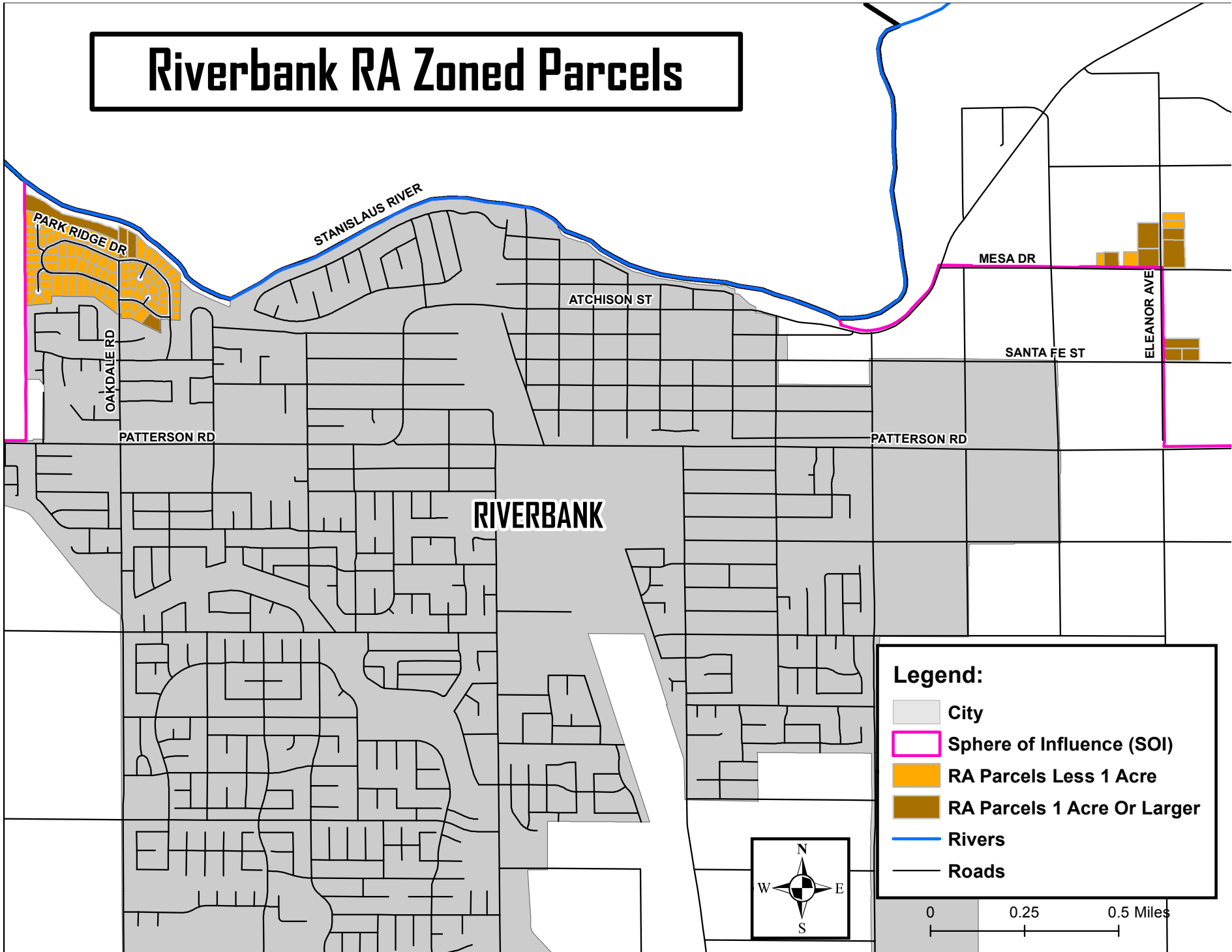


EXHIBIT C-7

Del Rio RA Zoned Parcels



STANISLAUS RIVER

COUNTRY VIEW DR

THUNDERBIRD DR

COUNTRY CLUB DR

DEL CIELO WY

STEWART RD

HARTLEY DR

MC HENRY AVE

CARVER RD

ST JOHNS RD

LADD RD

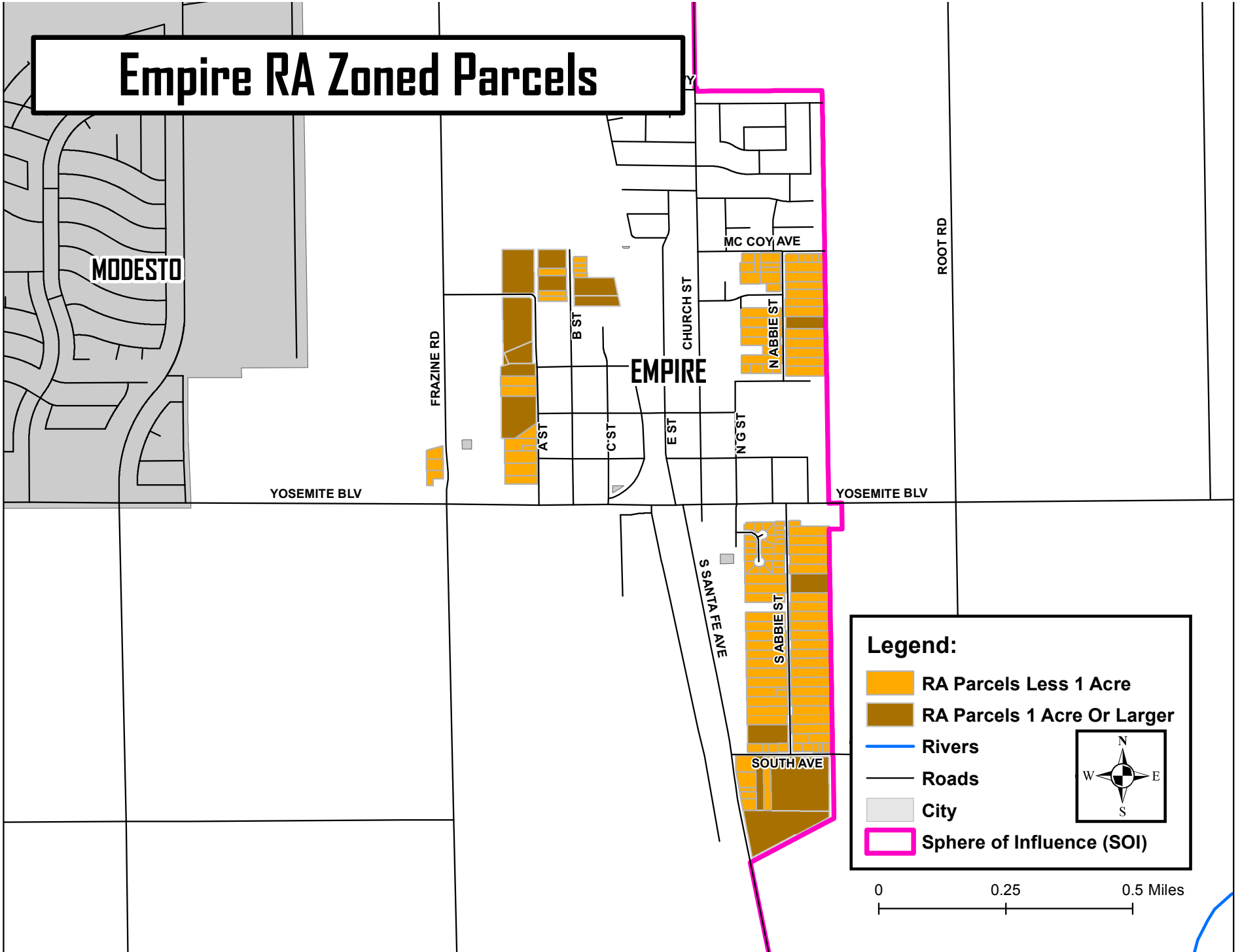
LADD RD

Legend:

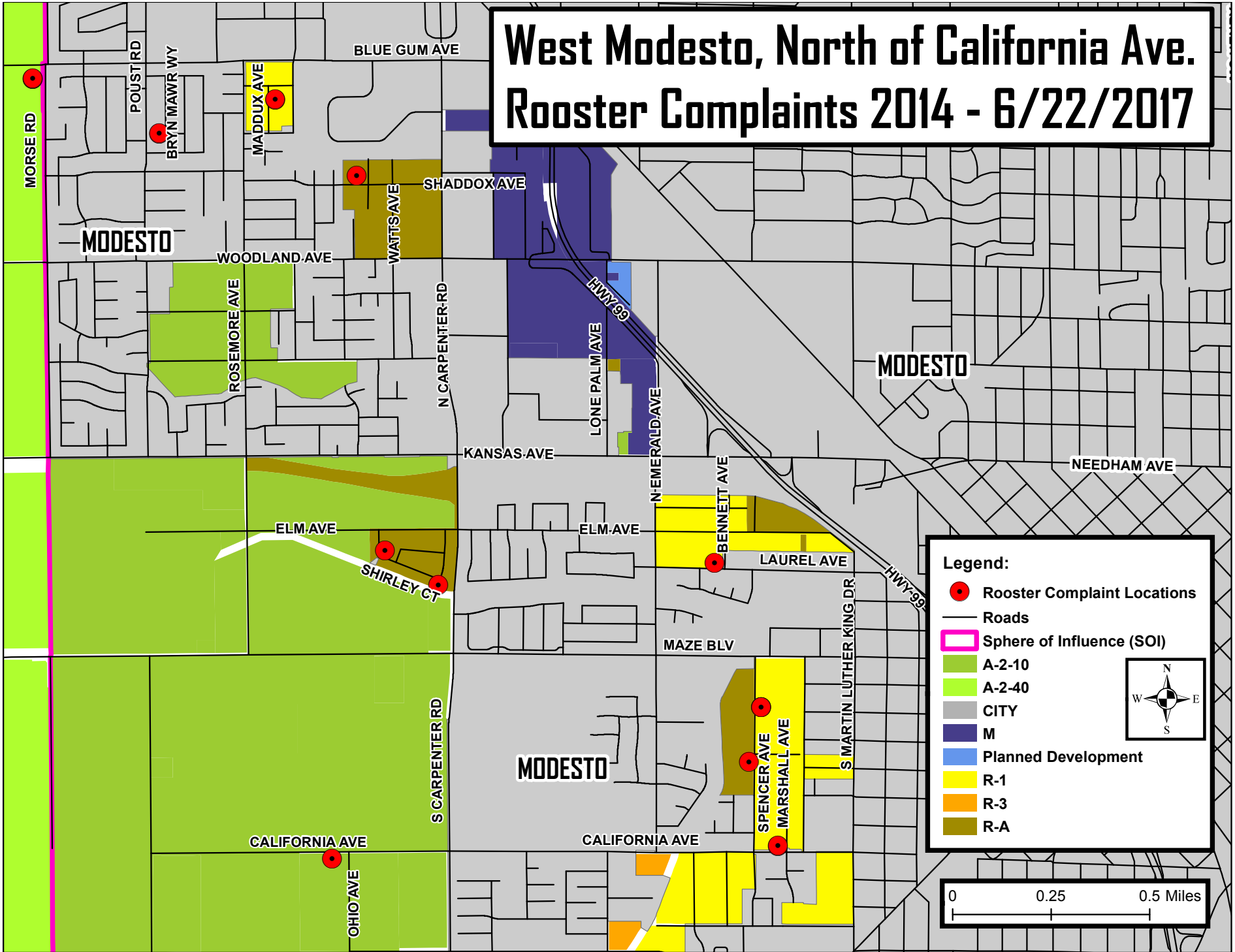
-  RA Parcels Less 1 Acre
-  RA Parcels 1 Acre Or Larger
-  Rivers
-  Roads

0 0.25 0.5 Miles

Empire RA Zoned Parcels

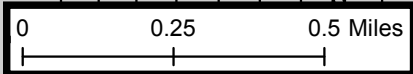


West Modesto, North of California Ave. Rooster Complaints 2014 - 6/22/2017



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

SEC PPBA *Harburg, Ca*
APA of
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: _____

land holder
Bridget Ridole *poultry raiser* *8-3-17*
 Name Title 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