

**EXECUTIVE OFFICER'S AGENDA REPORT
FEBRUARY 22, 2017**

TO: LAFCO Commissioners
FROM: Sara Lytle-Pinhey, Executive Officer *SLP*
SUBJECT: UNINCORPORATED ISLANDS INVENTORY & UPDATE

This report is being provided for the Commission's information and is intended to:

1. Provide an overview and inventory of unincorporated islands within Stanislaus County
2. Review State law and local LAFCO policies regarding islands and annexation
3. Update the Commission regarding legislation that may impact future annexations of unincorporated islands

BACKGROUND

Among the goals of LAFCOs are discouraging urban sprawl and encouraging logical and orderly agency boundaries to promote efficient provision of municipal services. Since the enactment of State laws governing LAFCOs in 1963, unincorporated islands have been a concern due to their illogical boundaries and service areas. Annexation of islands to cities is usually preferred, as cities provide a wide range of urban services. However, there is little financial incentive for cities to annex these areas and often residents and/or property owners are opposed to annexation. Over the past few decades, legislation has been enacted with the intent to streamline or expedite the ability of cities to annex island areas.

INVENTORY

Stanislaus County has a number of unincorporated islands and pockets that can result in service confusion and inefficiencies. LAFCO Staff has compiled an inventory of unincorporated areas (attached as Exhibit 1), sorted by the following categories:

Islands: These are unincorporated areas that are completely surrounded (100%) by city limits. State law describes islands as being surrounded or "substantially surrounded" by a city or neighboring city. The Commission has adopted a policy stating that it will determine whether an area is considered "substantially surrounded" on a project-by-project basis.

Potential Islands (90%+): Areas that are at least 90% surrounded and have the potential for being considered islands are provided in this report for the Commission's information.

Pockets: State law and Commission policy do not currently have a specific definition for pocket areas. As used in this report, they are considered developed areas within a peninsula of unincorporated territory that are at least 80% surrounded by city limits or are remainder areas of other islands that could reach this percentage through contiguous annexations.

There are currently 23 unincorporated islands in Stanislaus County that are surrounded entirely by a city's boundaries. These account for approximately 1,452 acres and are located in the

Spheres of Influence of Ceres, Modesto, and Turlock. Six areas are surrounded by 90% or more of a city's boundaries. These account for approximately 715 acres total of areas that could potentially be considered by the Commission as "substantially surrounded" islands.

There are eight areas that can be described as "pockets" of unincorporated territory. These include areas with existing urban development that may benefit from city services. Most are over 80% surrounded by a city's limits. Two areas were identified that are currently less than 80% surrounded but, given their proximity to other islands or pockets, have the potential to eventually become fully surrounded by a city's limits.

STATE LAW

Several sections of State law (Cortese-Knox-Hertzberg Act) are applicable to unincorporated islands. Generally, State law discourages creation of new island areas and has attempted to streamline their annexation. Applicable sections are summarized below.

Creation of New Islands Prohibited (§56744)

Government Code section 56744 prohibits creation of islands of unincorporated territory surrounded by a city. An exception can only be made if the Commission finds that it would be detrimental to the orderly development of the community and that the area is located such that it could not reasonably be annexed to another city or incorporated as a new city.

Streamlined Annexation of Existing Islands (§56375.3)

The California Legislature enacted special legislation, originally adopted in 1977 and subsequently expanded, that made it possible for certain unincorporated islands to be annexed *without* a protest hearing or election. In approving this legislation, the Legislature recognized that:

- Urban unincorporated islands continue to represent a serious and unnecessary statewide governmental inefficiency and that this inefficiency would be resolved if these islands were annexed into the appropriate surrounding city.
- Property owners' ability to vote on boundary changes is a statutory privilege and not a constitutional right, and
- Urban unincorporated islands are inherently inefficient and that these inefficiencies affect not just pocket residents, but also those residing in the city and the entire county.

In order to qualify for the streamlined annexation process, the proposal must meet all of the following criteria:

- (a) The annexation is proposed by resolution of the city.
- (b) The island does not exceed 150 acres and the annexation constitutes the entire island.
- (c) The territory constitutes an entire unincorporated island or constitutes a reorganization containing a number of individual unincorporated islands.

- (d) The island is surrounded or substantially surrounded by the annexing city or by the annexing city and adjacent cities.
- (e) The island is not a gated community where services are currently provided by a community services district.
- (f) The island is substantially developed or developing based on the availability of public utilities, presence of public improvements or the presence of physical improvements on the parcels within the area.
- (g) The island is not prime agricultural land as defined in the Cortese-Knox-Hertzberg Act.
- (h) The island is receiving benefits from the annexing city or will benefit from the city.

State law also provides that if the above criteria are met, the Commission *shall* approve the proposal. This gives the city further certainty that the annexation will occur.

Disapproval Limitation (§56375(a)(4))

In addition to those islands meeting the criteria described previously, the Commission is restricted from disapproving any island annexation initiated by resolution of the city for areas that are surrounded or substantially surrounded, substantially developed or developing, not prime farmland, and designated for urban growth on the general plan of the annexing city.

Ability to Require Entire Island (§56375(a)(5))

As a condition to the annexation of an area that is surrounded or substantially surrounded, by the city to which the annexation is proposed, the Commission may require that the annexation include the *entire* island of surrounded or substantially surrounded territory.

LOCAL POLICIES

Stanislaus LAFCO's current policies regarding islands are consistent with State law, mirroring the sections described previously and also expanding upon the following topics:

Policy 17 - Island Annexations

Policy 17 reiterates the island annexation streamlining provisions. The Policy also states that the Commission will define the term "substantially surrounded" on a case-by-case basis, through review of land uses, infrastructure, and patterns of service delivery with the island area and surrounding lands. No specific percentage of boundary contiguity will be applied across the board for all proposals purporting to be "substantially surrounded." Government Code section 56375(f) empowers a LAFCO to determine the boundaries of any proposals before it. It is up to each LAFCO to use its own discretion to determine whether a proposed annexation is "substantially surrounded"

Policy 20 - Logical Boundaries:

This policy describes factors that the Commission considers favorable when considering a proposal. The Commission encourages the creation of logical boundaries and proposals which would not create islands and would eliminate existing islands, corridors, or other distortion of

existing boundaries. Policy 20 also states that proposals which are orderly and will either improve or maintain the agency's logical boundary are encouraged by the Commission.

Policy 21 - Development of Vacant or Underutilized Land Prior to Annexation of Additional Territory

This policy reinforces the Commission's preference for infill development and also states that, "proposals resulting in leap-frog, non-contiguous urban development patterns shall not be approved."

Sphere of Influence Policies

Discouragement of islands or other irregular boundaries is also included in the Commission's Sphere of Influence policies, which are intended to be the guideline for future growth of an agency. The Commission's policies state that, "sphere of Influence boundaries shall not create islands or corridors unless it can be demonstrated that the irregular boundaries represent the most logical and orderly service area of an agency."

RECENT LEGISLATION AFFECTING ISLAND ANNEXATIONS

Senate Bill (SB) 244

SB-244 became effective in 2012 and requires counties, cities, and LAFCOs to identify disadvantaged communities and their service needs as they relate to sewer, water, and fire protection. A disadvantaged community is defined as a community with an annual median income that is less than 80 percent of the statewide annual median household income. The legislation requires cities and counties to further identify and analyze islands, fringe and legacy communities as part of their general plans and encourages the annexation and extension of services to those disadvantaged communities. The majority of unincorporated islands in Stanislaus County also qualify as disadvantaged communities.

For LAFCOs, SB-244 also restricts annexations of greater than 10 acres that are adjacent to a disadvantaged unincorporated community unless it is accompanied by an application to also annex the community. The only exception to this requirement is where a prior application for annexation of the disadvantaged community has already been made within the last five years or if the Commission finds, based on written evidence, that a majority of registered voters within the affected territory are opposed to the annexation.

Since SB-244, legislation has also been proposed that would require cities to serve entire disadvantaged communities if one property adjacent to the area is served. This legislation failed to pass last year but may reappear in upcoming legislative cycles.

SCENARIOS & TRENDS

The following describes some scenarios and trends that Staff has observed locally.

Annexing Portions of Islands for Infill Development

The Commission has historically favored proposals to reduce or eliminate unincorporated islands. While the Commission's policies encourage elimination of an *entire* island, "chipping away" at islands is fairly common. Over the past decade, there have been ten annexations that

have reduced the size (and in one case--eliminated) unincorporated islands, as shown in the following table.

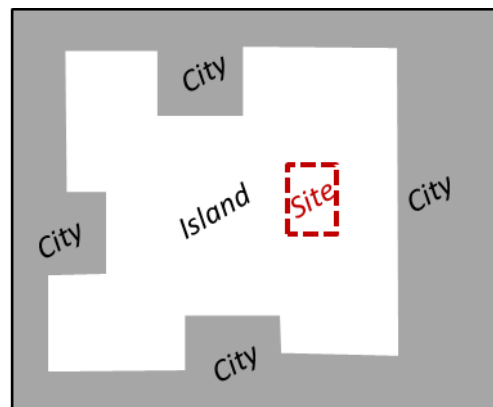
Annexations Involving Unincorporated Islands 2006-2016

Name	Jurisdiction	Year	Acres Annexed	Estimated Remaining Acres
North Olive-Canal Road Reorg.	Turlock	2006	3.09	18
Hawkeye Addition No. 2A Reorg.	Turlock	2006	10.8	0 (entire island)
Berger Reorganization	Turlock	2007	1.66	16
Temperate Reorganization	Modesto	2008	2.21	75
Lone Palm No. 2 Reorganization	Modesto	2008	3.55	175
Carver-9 th Street Reorganization	Modesto	2009	32.08	143
Central-Hatch No. 2 Reorg.	Ceres	2011	10.09	49
Shackelford Change of Org.	Modesto	2012	138.71	133+
Gallo Campus Reorganization	Modesto	2014	4.68	383
Ellen Avenue Reorganization	Modesto	2016	0.97	39
<i>Total:</i>			207.84	898

During the public hearings for the majority of the above-listed proposals, neighboring property owners and residents within the island areas expressed opposition to also being included in the annexation area.

As the economy recovers, Staff has seen an increase in requests regarding infill development in unincorporated areas. For example, Staff recently received an inquiry regarding a vacant property located in the middle of an unincorporated island, also considered to be a disadvantaged community. The person wished to subdivide and develop the property, necessitating city sewer and water. For this scenario, LAFCO's policies generally encourage annexation of the site. However, given the location of the property within the middle of an island, additional acreage would need to be included in any proposed annexation in order to make the boundary logical and avoid creation of a second island. This additional acreage would have the effect of triggering the SB-244 requirement that the *entire* disadvantaged community (or the entire island, in this case) also be annexed or included in a concurrent application.

Infill Example



In this manner, the requirements of SB-244 may actually *discourage* efforts to incrementally annex improvement areas that are also considered disadvantaged communities. As an example, had SB-244 been effective at the time of application for the Shackelford neighborhood, the City of Modesto would have also been required to make application for the surrounding territory, not yet included in the coordinated City-County effort. This may have delayed or prevented progress to annex the neighborhood.

Islands That Do Not Qualify for Streamlined Annexation

Given the number of criteria an island must meet in order to qualify for the streamlined provisions, it is not uncommon for an area to be disqualified based on one factor. As an example, Staff recently received an inquiry regarding potential development within an unincorporated island (100% surrounded) where LAFCO's policies would support annexation of the entire island. During an initial analysis of the island, it was found to meet the majority of the requirements for a streamlined annexation (e.g. less than 150 acres, completely surrounded by the city limits, and substantially developed); however, one parcel within the island was currently identified as prime farmland. The existence of this prime farmland designation, although entirely surrounded by city limits and urban development, disqualified the area from the streamlined annexation provisions. In effect, this discourages annexation of the whole island, as the need for a protest hearing brings uncertainty as well as additional costs and time to the annexation process. There is at least one other island also containing prime farmland that would similarly be disqualified.

In addition to being disqualified for the existence of prime farmland, there are at least three areas that would be disqualified from the streamlining provisions based on their size (in excess of 150 acres).

Increase in Out-of-Boundary Service Requests

Staff has also seen an increase in out-of-boundary service requests, particularly for emergency health and safety reasons (e.g. failed well or septic). These are viewed by the Commission as an alternative to annexation and appropriate in certain cases. These can result in situations where more unincorporated lands are being provided city services while remaining *outside* the city's limits. Out-of-boundary service applications are also a more attractive option for those seeking an immediate service connection (e.g. city sewer or water) without expending additional time and money on the annexation process. In these cases, applicants are required to sign agreements consenting to future annexation of the property, although the timeframe for the annexation is uncertain.

LAFCO'S ROLE

In as much as LAFCO's laws and policies attempt to encourage and streamline island annexations, LAFCO cannot *initiate* annexations. This must be done by either resolution from the annexing city or petition of residents. Financial and political challenges often prevent island annexations from being initiated. LAFCOs can do the following to help facilitate annexations:

1. *Provide Technical Assistance to Citizens, Cities, and the County*

LAFCO Staff regularly provides mapping data, acreage counts, and other annexation information to interested agencies and persons.

2. *Coordinate with Cities Early in the Process and Assist in Preparation of Annexation FAQs Sheets*

Residents tend to be interested in the specific pros and cons of annexation of their area (e.g. What will it actually cost me? What services will I receive?). Having this information available early in the process helps residents fully consider the impacts of annexation.

3. Ensure Local LAFCO Policies Remain Conducive to Annexations

Many sections of the Commission's current Policies and Procedures manual are quoted directly from State law. As there have been minor amendments to the law over the past few years, Staff intends to propose similar amendments to the Commission's Policies and Procedures to remain fully consistent with State law. These will be brought back at a subsequent Commission hearing for which adequate review time is available for interested parties.

4. Continue to Support Legislation that Would Reduce Impediments to Annexation and Provide Incentives to Cities/Counties

Annexation and provision of services to unincorporated areas continues to be a hot topic during each legislative cycle. With the assistance of CALAFCO, Staff continues to monitor legislation that would potentially provide incentives to cities or the County for these efforts and will keep the Commission apprised of proposed legislation.

Attachments:

- Inventory of Unincorporated Islands & Pockets
- Maps

Unincorporated Islands

(100% Surrounded by a City)

Map #	Name/Location	Sphere of Influence	Est. Acres	% Surrounded by City	Last Adjacent Annexation
1	Stonum-Hatch	Ceres	4	100%	1993
2	Central-Hatch	Ceres	49	100%	2011
3	Herndon-Nadine	Ceres	79	100%	1988
4	Rosemore-Blue Gum	Modesto	13	100%	2000
5	MLK-California	Modesto	14	100%	1996
6	Carpenter-Woodland	Modesto	38	100%	1981
7	Emerald-Elm	Modesto	42	100%	1988
8	Spencer-California	Modesto	61	100%	1989
9	Rosemore-Temperate	Modesto	75	100%	2008
10	Gallo-Claus	Modesto	82	100%	1986
11	Keller-Thorsen	Modesto	88	100%	2000
12	Whitmore-Crows Landing	Modesto	92	100%	2012
13	Emerald-Woodland	Modesto	143	100%	2009
14	Rouse-Colorado	Modesto	154	100%	1987
15	Bret Harte Neighborhood	Modesto	352	100%	2004
16	9th Street Area	Turlock	2	100%	1980
17	5th Street Area	Turlock	5	100%	1983
18	Montana-West Ave South	Turlock	7	100%	1997
19	Montana-Linwood	Turlock	8	100%	2001
20	Bothun-Berkeley	Turlock	11	100%	2004
21	Kenwood-Starr	Turlock	16	100%	2007
22	8th & 9th Street Area	Turlock	30	100%	1992
23	Jordan-West Ave South	Turlock	87	100%	1997

Total 1,452

Unincorporated Areas Surrounded by 90%+

Map #	Name/Location	Sphere of Influence	Est. Acres	% Surrounded by City	Last Adjacent Annexation
24	McHenry-Coralwood	Modesto	12	90%	1999
25	California-Briggs	Modesto	28	91%	1991
26	Paradise-Chicago	Modesto	39	96%	2016
27	Hatch-Crows Landing	Modesto	133	96%	2012
28	Airport Neighborhood	Modesto	383	93%	2014
29	Golden State Blvd	Turlock	120	93%	1995

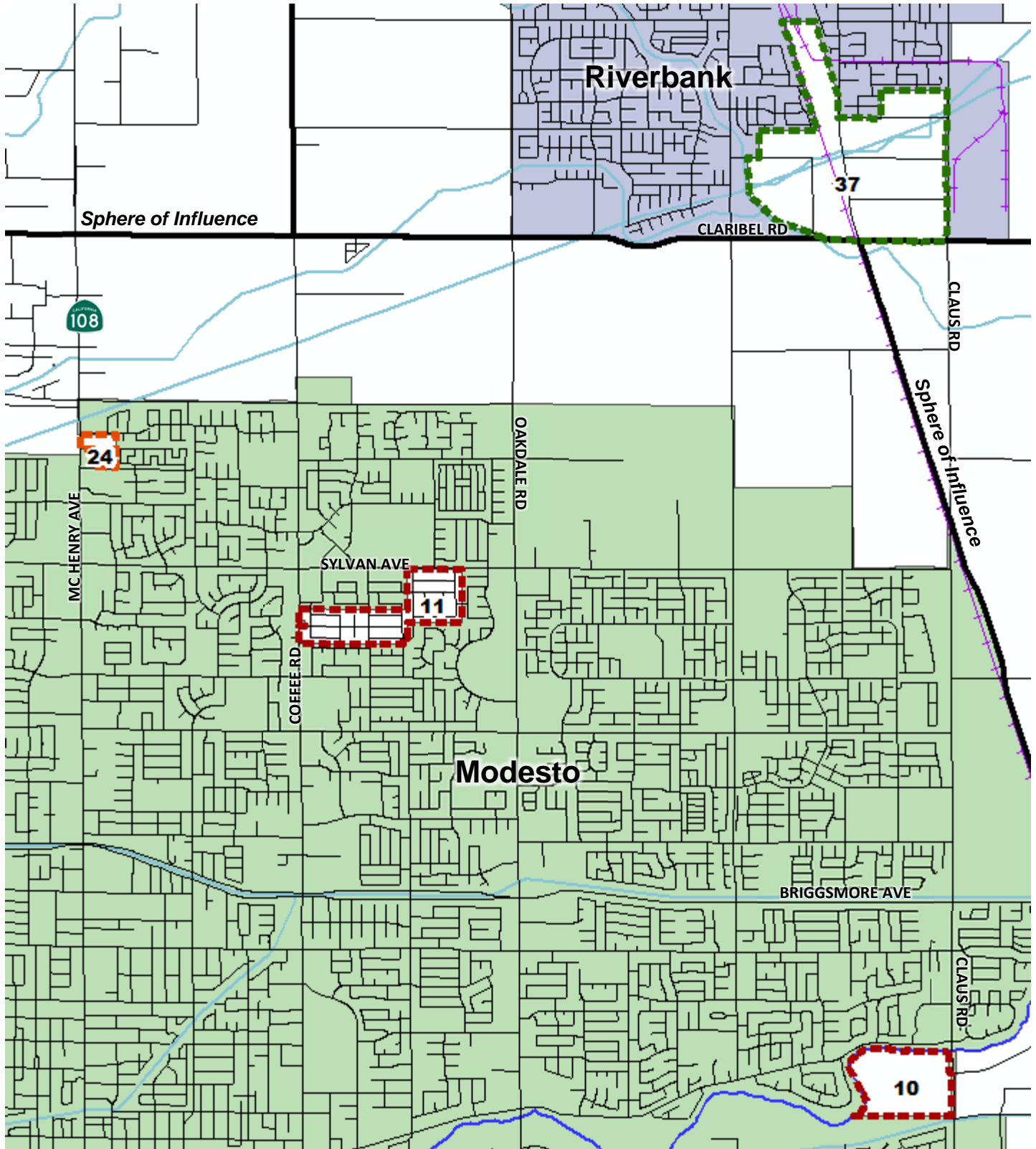
Total 715

Unincorporated "Pockets"

Map #	Name/Location	Sphere of Influence	Est. Acres	% Surrounded by City	Last Adjacent Annexation
30	Collins-Don Pedro	Ceres	54	80%	1987
31	Northwest Ceres Area	Ceres	708	81%	2004
32	Robertson Rd	Modesto	92	88%	1978
33	Hwy 99-7th St	Modesto	112	66%	2012
34	Parklawn Area	Modesto	147	51%	2012
35	West Modesto	Modesto	214	80%	1991
36	Tioga Ave	Oakdale	48	83%	1999
37	SE Riverbank	Riverbank	358	87%	2006

Total 1,733

Unincorporated Islands & Pockets Riverbank & North Modesto Areas

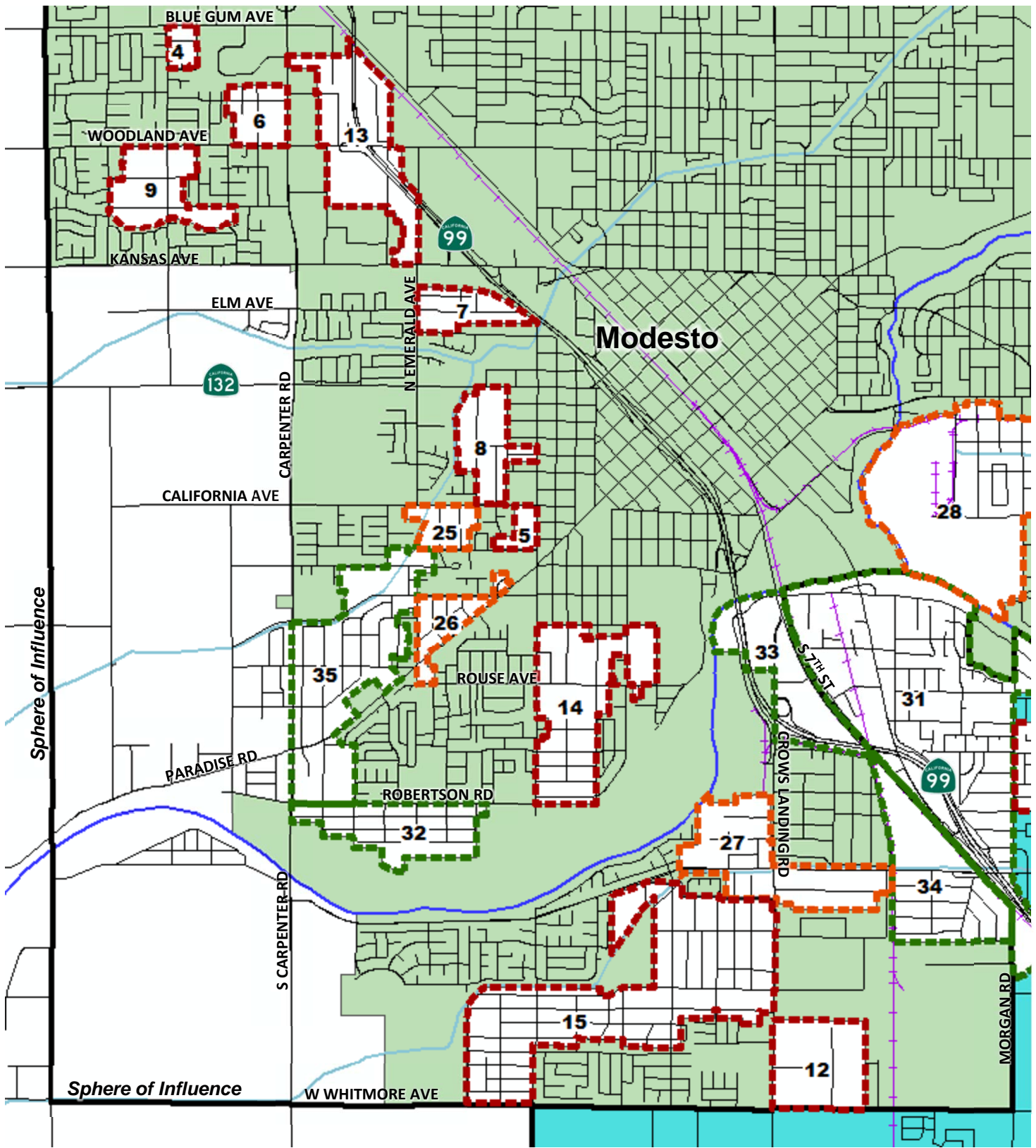


 Unincorporated Islands (100% Surrounded)	 Pocket Areas
 Potential Islands (90%+ Surrounded)	 City Sphere of Influence

Source: LAFCO Files, Feb. 2017

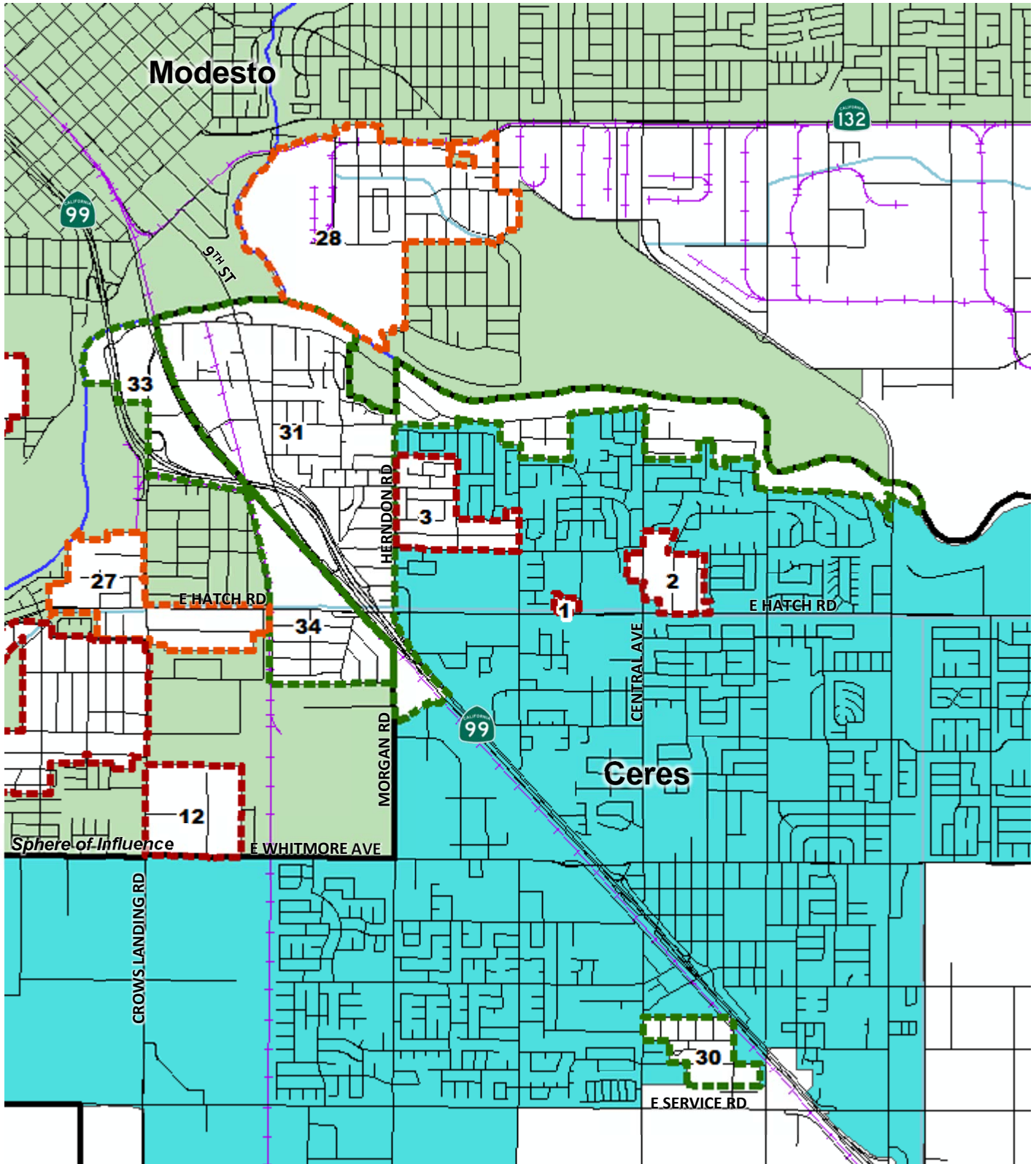


Unincorporated Islands & Pockets West Modesto Area



- Unincorporated Islands (100% Surrounded)
- Potential Islands (90%+ Surrounded)
- Pocket Areas
- City Sphere of Influence

Unincorporated Islands & Pockets South Modesto & Ceres Areas

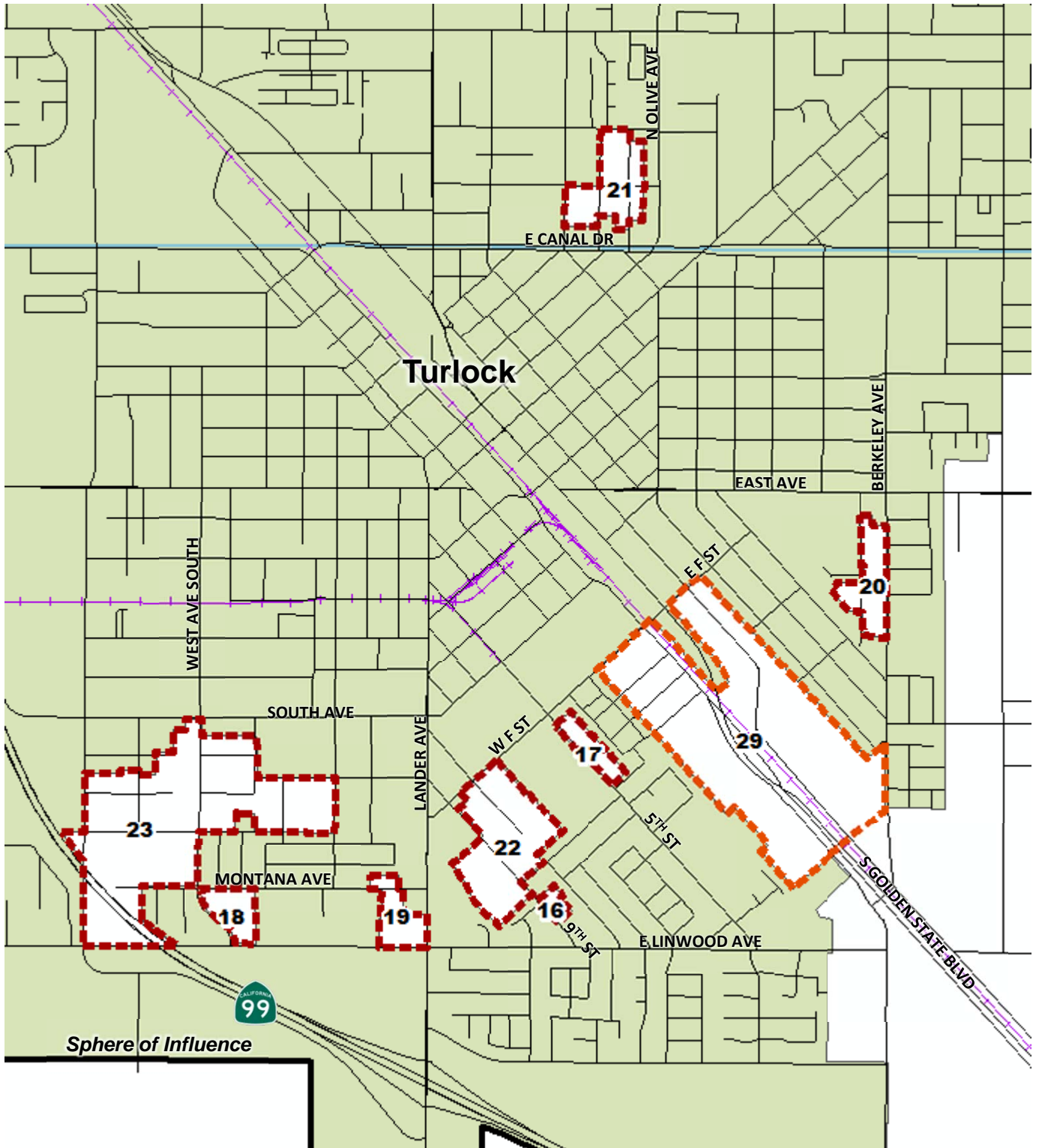


 Unincorporated Islands (100% Surrounded)	 Pocket Areas
 Potential Islands (90%+ Surrounded)	 City Sphere of Influence

Source: LAFCO Files, Feb. 2017



Unincorporated Islands & Pockets Turlock Area

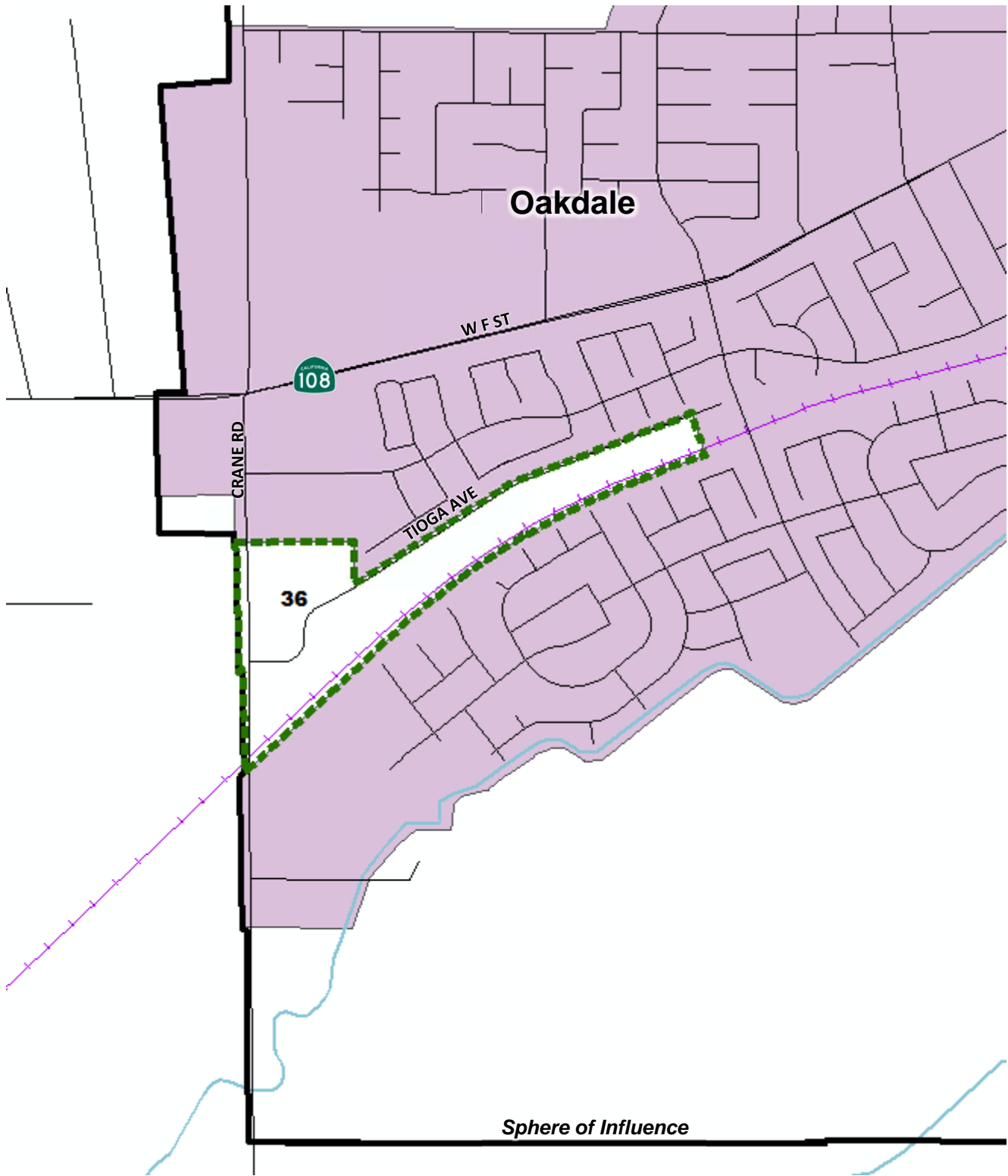


 Unincorporated Islands (100% Surrounded)	 Pocket Areas
 Potential Islands (90%+ Surrounded)	 City Sphere of Influence

Source: LAFCO Files, Feb. 2017



Unincorporated Islands & Pockets Oakdale Area



 Unincorporated Islands (100% Surrounded)	 Pocket Areas
 Potential Islands (90%+ Surrounded)	 City Sphere of Influence

Source: LAFCO Files, Feb. 2017

