

March 12, 2021

Kim Espinosa
Planning Manager, Planning & Permitting Division
City of Merced
678 W. 18th Street
Merced, CA 95340

Re: Proposed Annexation Pre-Application Process and Conditional Wastewater Collection Capacity Allocation. City Council Agenda Item for March 15, 2021

Dear Kim:

As you are aware, we have been retained by Sid Lakireddy to assist him with the planning matters associated with his UC Villages project at the south western corner of Lake and Bellevue Roads. We have been aware generally of the concerns expressed by Staff and the City Council as it relates to competing annexation applications and the concern with limited sewer capacity. We are also aware of the recently complete Merced Sewer Master Plan and Sewer Master Plan DEIR and we have reviewed the working papers associated with the North Merced Annexation Feasibility Study. We ask that the City Council postpone action on the Proposed Annexation Pre-Application Process for one Council meeting so that we can work collaboratively with City Staff to refine the proposed policies to make them more practicable.

We are grateful to receive an advance copy of the City Council Staff Report on the proposed City Policies related to annexation and assignment of limited sewer capacity. It is with this knowledge and our experience in dealing with such matters in the Central Valley for over 40 years that we submit this letter of concern.

It appears that with the passage of AB 3312 and the opportunities it affords the City of Merced for the eventual annexation of the UC Merced Campus, that a whole new level of annexation opportunities have materialized. In my mind, the City has two types of annexations they will be confronted with: normal annexations and annexations in compliance with AB 3312. We are aware that the City Council has authorized Staff to proceed with the annexation of UC Merced. We are also aware the City has the three (3) annexation applications (normal annexations) which have been filed as referenced in your Staff Report to the CC of October 19, 2020.

Considering the facts referenced above we encourage the City to consider other mechanisms to guide future annexation consideration including Pre-Annexation Development Agreements, as each development has unique characteristics, and a one-size fits all set of performance standards does not work. This approach will allow the City to individually consider each application and insert necessary milestones or address particular areas of concern for each proposed annexation/development.

Additionally, we would like to have the opportunity to openly discuss alternatives to the Annexation policies suggested considering the implementation of AB 3312. We suspect passage of AB 3312 is the reason the North Merced Annexation Feasibility Study work has been delayed and assume these annexation policies once adopted by the City Council will be folded into the aforementioned Study.

Assuming the Council desires to move forward with the Pre-Application procedures as outlined in your staff report, we encourage the City Council to consider adding strategies represented in your draft policy document. We are of the opinion that the policies should address key areas of concern including:

- 1) Currently properties that are covered by Community Plans or analogous environmental documents are not given consideration despite the fact that they are further along in the entitlement process.
- 2) Properties which have received verified 401 and 404 clearances from the US Fish and Wildlife are not given specific consideration, despite the fact that the lack of such clearances is a clear indication that the development is clearly further along in the development cycle.
- 3) Properties which have urban services immediately available.
- 4) If the City Council is adamant that all future annexations projects provide Community benefit, the City should be prepared to express to the development community what Community Benefits are of greatest interest. I caution the City to include Community Benefit as merit criteria as suggested. The City should be looking at an equitable process for reviewing community benefit suggestions.
- 5) The Merit Criteria referenced in the Pre-Application Process, Urban Expansion language of the Merced Vision 2030 (UE-1.3.g.), needs to be updated in light of AB 3312.

This should be included in the criteria to establish priority for properties to be annexed into the City.

Our comments on the suggested Conditional Wastewater Capacity Allocation Process relate to the time frames referenced. Areas of biggest concern include:

- a) Item #4 suggests that an application for Final Map and Improvement Plans be filed within 90 days after annexation approval. We are not sure if the annexation approval referenced is defined as the City or Merced LAFCo? In either case, the presumption is that the annexation application includes all discretionary approvals sought for the development of the subject property. I would argue that this rarely the case. For obvious reasons, each annexation will involve numerous engineering studies to perfect project obligations. 90 days is simply unrealistic.
- b) Item #5 which suggest that within 90 days after Final Map or Parcel Map recording that an applicant shall apply for an Encroachment Permit/Grading Permit along with Building Permits for up to 25% of the proposed units or building floor area that will use the wastewater capacity. In all case, the time frames associated with development of actual construction documents are governed

by uncertain conditions and possible delays. All Construction Documents take time and dedication of all design professionals, especially in a hot market condition. The obligations to meet such a performance standard would result in rushed and imperfect application submittals which would only frustrate the approval process. Again 90 days is simply unrealistic.

We would appreciate this communication being shared with the City Council prior to the March 15th hearing. We will be prepared to address our concerns with the City Council about this matter on March 15, 2021 when given the appropriate opportunity.

Best Regards,



John B. Anderson
President



Cc: Sid Lakireddy
Scott McBride, City of Merced Director of Development Services