

**IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA**

**A RESOLUTION APPROVING THE BALLOT QUESTION AND LANGUAGE FOR  
THE SOUTH LIVERMORE URBAN GROWTH BOUNDARY INITIATIVE AND  
DIRECTING STAFF TO PLACE IT ON THE BALLOT FOR THE NOVEMBER 8, 2022,  
ELECTION TO ENABLE THE SOUTH LIVERMORE SEWER EXTENSION PROJECT**

The City Council received requests to extend municipal sewer service to address groundwater quality issues in South Livermore that are threatening the local wine industry.

On November 22, 2021, the City Council directed staff to prepare amendments to the South Livermore Valley Urban Growth Boundary Initiative and study a preliminary alignment of the South Livermore Valley Sewer Extension Project ("Project").

On May 23, 2022, the City Council reviewed draft initiative language and directed staff to modify the language in response to public comments.

On June 21, 2022, the Planning Commission held a public hearing to receive public comments on the Draft Supplemental Environmental Impact Report.

On July 11, 2022, the City Council held a duly noticed public hearing to consider the Project, staff recommendations, all public comments and testimony, and findings.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Livermore that prior to taking action on the Project, and at a properly noticed public hearing, the City Council reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The City Council's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

**BE IT FURTHER RESOLVED** that the City Council of the City of Livermore has considered the Record Evidence and adopted a resolution certifying a Supplemental Environmental Impact Report.

**BE IT FURTHER RESOLVED** that the City Council of the City of Livermore, based upon the City Council's own independent review of the Record Evidence and considerations, hereby approves the ballot question and language for the South Livermore Urban Growth Boundary Initiative language, attached hereto as Exhibit A, for placement on the ballot for the November 8<sup>th</sup> 2022, election.

**BE IT FURTHER RESOLVED** that the City Council of the City of Livermore directs city staff to conduct all necessary actions to prepare materials and place the initiative on the ballot for the November 8, 2022, election.

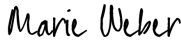
**BE IT FURTHER RESOLVED** that the City Council of the City of Livermore finds that service fees currently collected from Livermore rate payers shall not be used to fund the construction of the sewer extension project.

The documents that constitute the record of proceedings upon which this decision is based can be found in the City Clerk's Office, 1052 S. Livermore Avenue, in Livermore California.

On motion of Council Member Munro, seconded by Mayor Woerner, the foregoing resolution was passed and adopted on July 11, 2022 by the following vote:

AYES: Council Members Carling, Kiick, Munro, Vice Mayor Bonanno, and Mayor Woerner  
NOES: None  
ABSENT: None  
ABSTAIN: None

ATTEST:

DocuSigned by:  
  
803704826B644BB...  
Marie Weber  
City Clerk  
7/13/2022 | 5:54 PM PDT

APPROVED AS TO FORM:


DocuSigned by:  
  
ACD00D4E252C458...  
Jason R. Alcala  
City Attorney

Exhibit A – Ballot Question and South Livermore Urban Growth Boundary Initiative

**Question on the ballot:**

**Measure \_\_: Shall the ordinance amending the South Livermore Urban Growth Boundary policies in the City of Livermore's General Plan to allow the City to extend sewer service to permitted uses within the South Livermore Valley Area Plan Planning Area be adopted? Yes\_\_ No \_\_.**

**Measure**

Full Text of Measure

Measure \_\_\_\_\_

AN ORDINANCE OF THE CITY AMENDING THE SOUTH LIVERMORE URBAN GROWTH BOUNDARY POLICIES IN THE CITY OF LIVERMORE'S GENERAL PLAN TO ALLOW THE CITY TO EXTEND SEWER SERVICE TO PERMITTED USES WITHIN THE SOUTH LIVERMORE VALLEY AREA PLAN PLANNING AREA.

**The people of the City of Livermore, California do ordain as follows:**

**Section 1. Purpose and Findings.**

The purpose of this initiative is to protect water quality and agriculture by updating the South Livermore Urban Growth Boundary (South Livermore UGB) policies to allow full implementation of the South Livermore Valley Area Plan. If this initiative measure is adopted by the Livermore voters, the South Livermore UGB policies would be amended to allow the City to extend sewer service beyond the South Livermore UGB to a limited portion of the South Livermore Valley, including properties fronting portions of South Livermore Avenue, Buena Vista Avenue, Tesla Road and Greenville Road in order to protect water quality, support agriculture, and enable connection of compatible uses, consistent with the provisions of Measure D.

This initiative would not change the boundaries for the South Livermore UGB or make any changes to the South Livermore Valley Area Plan or the Alameda County Measure D approved by county voters in 2000.

**A. Findings:**

The people of the City of Livermore find that this initiative promotes and protects the health, safety, welfare, and quality of life of City residents, based upon the following:

1. The South Livermore Valley Area Plan (Area Plan) was adopted by Alameda County Board of Supervisors in 1993 to ensure the survival and enhancement of the century-old Livermore wine region. The Area Plan protects and expands agriculture and restricts commercial and residential development adjacent to Livermore while promoting uses that enhance the recognition and image of the area as an important premium wine and agricultural region.
2. To build upon and advance the goals of the Area Plan, Livermore voters approved the South Livermore UGB in 2000. The boundaries for the South Livermore UGB as adopted by the voters is in the City of Livermore General Plan as Figure 3-6, a copy of that figure is attached as Attachment 1.
3. The South Livermore UGB was intended to protect and enhance agriculture and open space in the South Livermore Valley. It has created a thriving agricultural economy in the region by supporting the goals of

the Area Plan, providing regulatory stability, and removing speculative acquisition of farmland by urban developers.

4. When the South Livermore UGB was adopted and later reaffirmed by the voters, it was anticipated that the unincorporated area outside the South Livermore UGB would be developed to its full potential without the use of a sewer system operated by a governmental agency such as the City of Livermore.
5. In the last two decades the groundwater basins throughout the State of California have experienced a steady decline in water quality. Regulatory agencies are working toward protecting our groundwater in an effort to safeguard this important resource. Many of these actions place undue hardships on property owners located outside the South Livermore UGB; and some properties are unable to operate effectively or realize development potential as contemplated by the Area Plan, Alameda County Measure D, and the South Livermore UGB.
6. Measures taken today to improve our groundwater quality in the future will help improve public health, agriculture, and quality of life in Livermore and the surrounding region.
7. This initiative promotes the Area Plan's purpose of expanding and enhancing cultivated agriculture by facilitating the types of development envisioned in the Area Plan and ensures that conservation easements will be held by land trusts accredited by national organizations (such as the Tri-Valley Conservancy accredited by the Land Trust Alliance). This initiative limits sewer service extensions to land uses that are consistent with the Area Plan, as it exists now or is amended in the future, and in conformance with Alameda County Measure D.
8. This initiative retains the South Livermore UGB location shown in Attachment 1 while amending the South Livermore UGB policies in the General Plan concerning extension of sewer services to allow the City to provide sewer services to uses contemplated by the Area Plan, as it exists now or is amended in the future, and in conformance with Alameda County Measure D.
9. The amendments will ensure that South Livermore UGB policies remain relevant and appropriate in light of a changing environment. This will improve the region's capacity to improve water quality and provide ongoing support for agricultural protection.

## **Section 2. General Plan Amendments.**

This initiative hereby amends the City of Livermore General Plan ("General Plan") Goal LU-18 and the associated Objective (LU-18-1) and Policies (P1-P7). Text to be inserted in the General Plan is indicated in bold double underlined type (**example**). Deletions are shown in strikethrough font (~~example~~). Text in standard type appears in the General Plan as of the submittal date and is not changed by this Initiative. The amendments are as follows:

**Goal LU-18** It is the goal of the City to establish a coherent and logical pattern of urban uses that protects and enhances open space and agricultural uses by providing a clear and permanent boundary for urban uses within the City's planning area. The provisions of GOAL LU-18, as readopted by the South Livermore Urban Growth Boundary Initiative **and amended by this initiative**, shall be amended only by a vote of the people.

**Objective LU-18.1** Maintain a permanent Urban Growth Boundary (UGB) on the City's southern edge (as indicated Figure LU 3-6 and the City's Land Use Map) beyond which urban development shall not be permitted. Non-urban uses, such as agriculture, parks, and open space may be permitted within and beyond the South Livermore UGB. (Relevant provisions of ~~that~~ **the South Livermore Urban Growth Boundary Initiative** are found in Appendix 3 of Appendix A **B of the General Plan**.)

### Policies

P1 For the purposes of this section, "urban uses" and "urban development" include any use that is not permitted on lands with a general plan land use designation of Limited Agriculture; General Agriculture; Viticulture; Agriculture/Viticulture; Parks, Trailway and Recreation, Corridor, and Protected Areas; or Range and Grassland as those uses existed on December 6, 1999. (South Livermore Urban Growth Boundary Initiative, 3-7-2000).

P2 For the purposes of this section, "urban services" refer to sewer and water service.

**P3** **For the purposes of this section, "South Livermore Valley Area Plan" refers to the South Livermore Valley Area Plan adopted on February 23, 1993 by the Alameda County Board of Supervisors, as it exists now or may be amended in the future.**

**P34** **For the purposes of this section, "South Livermore Valley Specific Plan" refers to the South Livermore Valley Specific Plan adopted on November 17, 1997 by the Livermore City Council, as it exists now or may be amended in the future.**

**P5** Permit only non-urban uses beyond the **South Livermore** UGB within the City's municipal boundary. Beyond the City's municipal boundary discourage and oppose any urban uses **that do not directly contribute to the conservation of agriculture and the goals of the South Livermore Valley Area Plan and South Livermore Valley Specific Plan.**

**P46** Extend urban services only to areas within the UGB, except that the City may provide:

- (i) sewage treatment and disposal services to the Veterans Administration Hospital for hospital uses;
- (ii) urban services for residences on parcels outside of the South Livermore UGB which parcels were existing as of October 27, 1997, provided the property receiving such services shall record a binding agreement between the property owner and the City disallowing further division of the property and any provision of urban services to non-residential uses upon the property;

(iii) sewage treatment and disposal services for residences on parcels outside of the South Livermore UGB provided the property receiving such services shall record a binding agreement between the property owner and the City disallowing further division of the property and any provision of urban services to non-residential uses upon the property, and subject to the following:

(a) The property receiving the services is designated under the Livermore General Plan, South Livermore Valley Area Plan, or South Livermore Valley Specific Plan for residential uses, and in conformance with Alameda County Measure D; or

(b) The property receiving the services was also a residential use on the date of this initiative.

(iii iv) urban services for commercial uses on parcels outside of the South Livermore UGB, which-parcels were existing as of October 27, 1997, subject to the following:

(a) the subject property is designated under the South Livermore Valley Area Plan or South Livermore Valley Specific Plan for agricultural uses, with associated allowable commercial uses;

(b) the service(s) will be utilized for allowable commercial uses consistent with the provisions of the South Livermore Valley Specific Plan, or South Livermore Valley Area Plan as they exist now or are amended in the future, in conformance with Alameda County Measure D;

(c) the subject property is located adjacent to the Livermore municipal boundaries as of the date of the adoption of the SLVSP and, is located adjacent to the Urban Growth Boundary;

(d) if required by City or LAFCO policy, the property will annex to the City;

(e) the service(s) can be provided to the subject property without any potential growth inducing impacts associated with potential provision of urban services to areas not otherwise allowed to receive such services under the South Livermore Valley Specific Plan or South Livermore Valley Area Plan; and

(f) before receiving such service(s), the property owner will record a conservation easement over the subject property with a land trust accredited by a national land trust accreditation organization in a form acceptable to the City and subject to an endowment requirement or other financial assurance in an amount that is reasonable and customary for the type of easement used to satisfy this requirement. The conservation easement restricts use of the subject property to agricultural and open space uses, except as to within a delineated commercial use area, not to exceed 10% of the property within which

allowable commercial uses and intensity of such uses shall be delineated permitted and described in the conservation easement. The conservation easement shall require all visitor-serving commercial buildings to be located within the delineated commercial use area on a contiguous development envelope not to exceed 2 acres, unless subject to a clustering plan under Measure D Program 34 (Clustering), as written when this initiative goes into effect. The City may only extend such services to permitted commercial uses described in the South Livermore Valley Specific Plan, or the permitted commercial uses described in the South Livermore Valley Area Plan and in conformance with Alameda County Measure D as applicable;

- (v) sewage treatment and disposal services for commercial uses on parcels outside of the South Livermore UGB, subject to the following:
- (a) the subject property is designated under the South Livermore Valley Area Plan or South Livermore Valley Specific Plan for agricultural uses, with associated allowable commercial uses;
  - (b) the service(s) will be utilized for allowable commercial uses consistent with the provisions of the South Livermore Valley Specific Plan, or South Livermore Valley Area Plan as they exist now or are amended in the future, in conformance with Alameda County Measure D;
  - (c) if required by City or LAFCO policy, the property will annex to the City;
  - (d) the service(s) can be provided to the subject property without any potential growth inducing impacts associated with potential provision of urban services to areas not otherwise allowed to receive such services under the South Livermore Valley Specific Plan or South Livermore Valley Area Plan;
  - (e) Alameda County has not permitted more than 180,000 square feet of commercial use within the area covered by the South Livermore Valley Area Plan, including commercial use existing as of the submittal date. If Alameda County permits 180,000 square feet or more of commercial use, then existing sewage treatment and disposal service may continue, but no new sewage treatment and disposal service shall be permitted pursuant to this subsection (v); and
  - (f) before receiving such service(s), the property owner will record a conservation easement over the subject property with a land trust accredited by a national land trust accreditation organization in a form acceptable to the City and subject to an endowment requirement or other financial assurance in an amount that is reasonable and customary for the type of easement used to satisfy



this requirement. The conservation easement restricts use of the subject property to agricultural and open space uses, except within a delineated commercial use area, not to exceed 10% of the property within which allowable commercial uses and intensity of such uses shall be delineated permitted and described in the conservation easement. The conservation easement shall require all visitor-serving commercial buildings to be located within the delineated commercial use area on a contiguous development envelope not to exceed 2 acres, unless subject to a clustering plan under Measure D Program 34 (Clustering), as written when this initiative goes into effect. The City may only extend such services to permitted commercial uses described in the South Livermore Valley Specific Plan, or the permitted commercial uses described in the South Livermore Valley Area Plan and in conformance with Alameda County Measure D as applicable;

- (iv) for sewer service in unincorporated areas, the connections (residential and commercial) pursuant to any of the subsections above shall allow no more wastewater flow than the equivalent of ten residential units as required by the LAVWMA Joint Powers Agreement. This requirement shall apply cumulatively to all contiguous uses within the unincorporated geographic area. Larger scale sewer service to unincorporated areas requires the unanimous approval of the LAVWMA Board of Directors. If areas are annexed, this restriction will not apply.
- P57 Encourage compatible uses immediately inside the South Livermore UGB, as necessary to prevent potential land use conflicts with outlying non-urban uses.
- P68 The South Livermore UGB is indicated by a solid line in Figure 3-6 and the City's land use map.
- P79 The foregoing provisions of Objective LU 18.1 and Figure 3-6, as readopted by the South Livermore Urban Growth Boundary Initiative and amended by this initiative, shall be amended only by a vote of the people or otherwise in accordance with Section 3.D. of the South Livermore Urban Growth Boundary Initiative.

**Section 3. Adoption, Effective Date, and Implementation.**

- B. **Adoption and Effective Date.** This ordinance shall be adopted by the City Council for the City of Livermore if approved by a majority of qualified electors at the city's general municipal election held on November 8, 2022, and pursuant to California Elections Code section 9217 shall be effective ten (10) days following the date upon which the Livermore City Council declares by resolution the results from that election. Upon the effective date of this initiative, (1) the provisions of Section 2 of the initiative are hereby inserted into the City of Livermore General Plan, as an amendment thereof; except that if the four amendments of the mandatory elements of the General Plan permitted by State law for any given calendar year have already been utilized in the year in which the initiative becomes effective, this General Plan amendment shall be the first amendment inserted into the City of Livermore General Plan on January 1 of the next year. Upon the effective date of this initiative, any provisions of the City Code or of any

other City of Livermore ordinance or resolution that are inconsistent with the General Plan amendments adopted by this Initiative shall not be enforced in a manner inconsistent with this Initiative.

- C. **Amendments.** This initiative may be amended or repealed only by the qualified voters of the City of Livermore at a City election.
- D. **Interim Amendments.** The date that the notice of intention to circulate this initiative was submitted to the elections official of the City of Livermore is referred to in this initiative as the “submittal date.” The City of Livermore General Plan in effect on the submittal date as amended by this initiative comprises an integrated, internally consistent, and compatible statement of policies for the City of Livermore. In order to ensure that nothing in this initiative would prevent the General Plan from being an integrated, internally consistent, and compatible statement of the policies of the City of Livermore, as required by State law, and to ensure that the actions of the voters in enacting this Initiative are given effect, any amendment or update to the General Plan that is adopted between the submittal date and the date that the General Plan is amended by this initiative measure shall, to the extent that such interim-enacted provision is inconsistent with the General Plan provisions adopted by this initiative, be amended as soon as possible to ensure consistency between the provisions adopted by this initiative and other provisions of the General Plan. Likewise, any amendment to the City Code that is adopted between the submittal date and the date that the City Code is amended by this initiative shall, to the extent that such interim-enacted provision is inconsistent with the City Code provisions adopted by this initiative, be amended as soon as possible to ensure consistency between the provisions adopted by this Initiative and other provisions of the City Code.
- E. **Conforming Amendments:** The text of the City of Livermore General Plan that refers to the “South Livermore Urban Growth Boundary Initiative, passed by local voters in March 2000,” on pages 3-8, 3-52, 3-53, and 3-69, is hereby updated to add after each occurrence of those words, “and amended by this initiative, passed by the local voters in November 2022,” with the name for this initiative in the ballot for the November 8, 2022 election inserted in place of this initiative in that sentence, as well as the areas of the Livermore General Plan amended by this initiative where the words “this initiative” are used.
- F. **Other City Ordinances and Policies:** The City of Livermore is hereby authorized and directed to amend the City of Livermore General Plan, all specific plans, the City Code, including the Zoning Code and other ordinances and policies affected by this initiative as soon as possible as necessary to ensure consistency between the provisions adopted in this Initiative and other sections of the General Plan, all specific plans, and other City ordinances and policies.
- G. **Reorganization:** The General Plan may be reorganized or readopted in different format, and individual provisions may be renumbered or reordered, in the course of ongoing updates of the General Plan, provided that the provisions adopted by section II of this initiative shall remain in the General Plan unless earlier repealed or amended by vote of the people of the City of Livermore.

- H. **Implementing Ordinances:** The City Council is authorized to adopt implementing ordinances, guidelines, rules, and regulations, as necessary, to further the purposes of this initiative.
- I. **Enforcement and Defense of Initiative:** The City Council shall take all steps reasonably necessary to enforce this initiative and to defend it against any challenge to its validity.
- J. **Project Approvals:** Upon the effective date of this initiative, the City of Livermore and its departments, boards, commissions, officers and employees, shall not grant, or by inaction allow to be approved by operation of law, any general plan amendment, rezoning, specific plan, subdivision map, use permit, amended use permit, building permit, or any other entitlement, that is inconsistent with this Initiative.

**Section 4. Severability and Interpretation.**

This initiative shall be interpreted so as to be consistent with all applicable Federal, State, and City laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this initiative. The voters hereby declare that this initiative, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this initiative that can be given effect without the invalid application. This initiative shall be broadly construed in order to achieve its purpose. Any singular term shall include the plural and any plural term shall include the singular. The title and captions of the various sections in this Initiative are for convenience and organization only, and are not intended to be referred to in construing the provisions of this initiative.

**Section 4. Exemptions for Certain Projects.**

- K. This initiative shall not apply to (1) any project that has obtained as of the effective date of the Initiative a vested right pursuant to state or local law or (2) any land that, under state or federal law, is beyond the power of the local voters to affect by the initiative power reserved to the people via the California Constitution.
- L. In the event a property owner contends that application of this initiative effects an unconstitutional taking of property, the property owner may request, and the City Council may grant, an exception to application of any provision of this initiative if the City Council finds, based on substantial evidence, that both (1) the application of any aspect of this initiative would constitute an unconstitutional taking of property, and (2) the exception will allow additional or continued land uses only to the minimum extent necessary to avoid such a taking.

**Attachments**

## **EXHIBIT A**

Attachment 1 – Diagram showing the location of the South Livermore Urban Growth Boundary (UGB) as approved by the voters. The UGB boundaries are not changed by this initiative. This diagram is provided for informational purposes only.

## Attachment 1

This diagram shows the location of the South Livermore Urban Growth Boundary (UGB) as approved by the voters on [date] and depicted in the City of Livermore General Plan as Figure 3-6. The UGB location is not changed by this initiative. This diagram is provided for informational purposes only

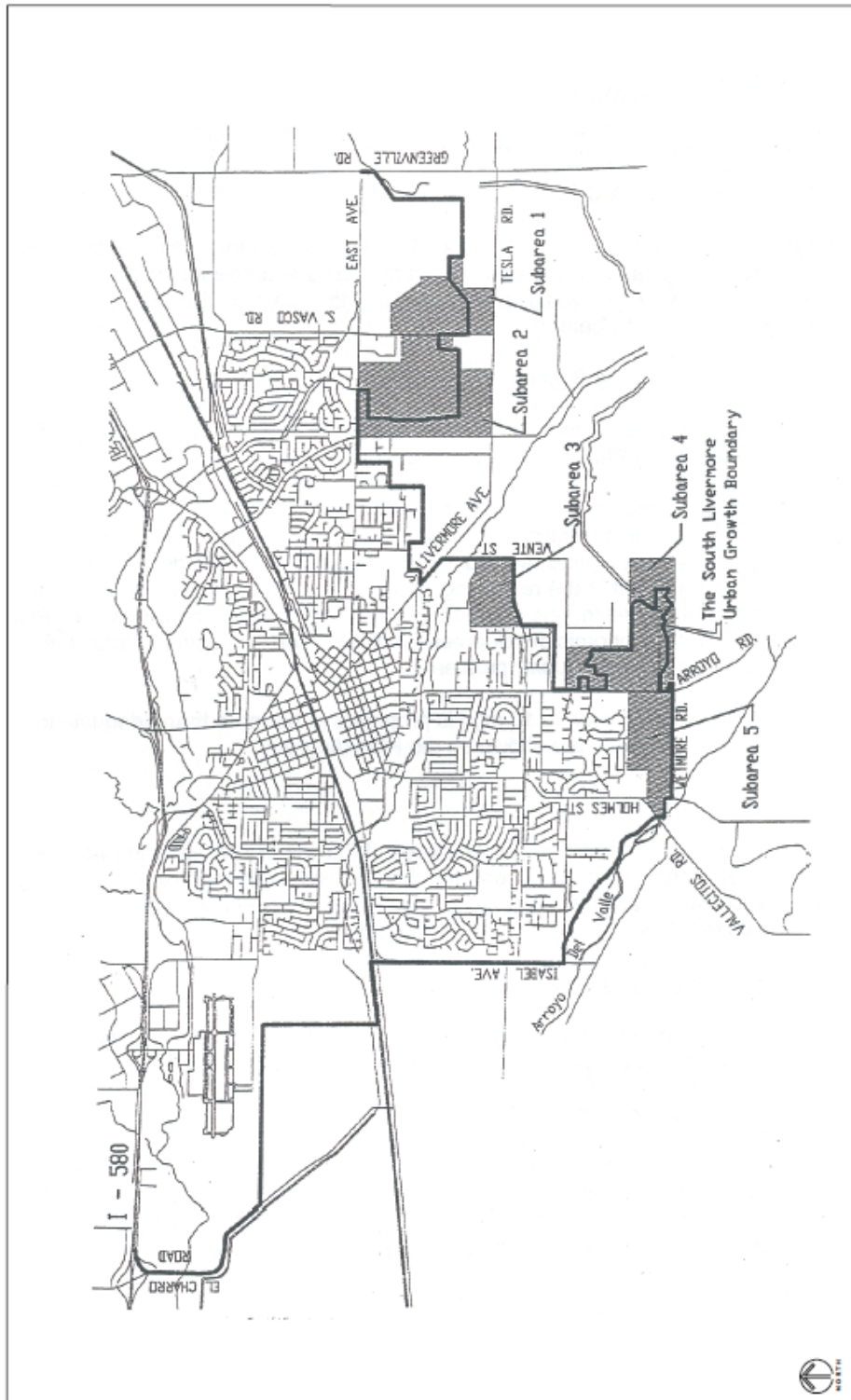


FIGURE 3 - 6

SOUTH LIVERMORE URBAN GROWTH BOUNDARY