

Community
Development
Department

Attachment 16

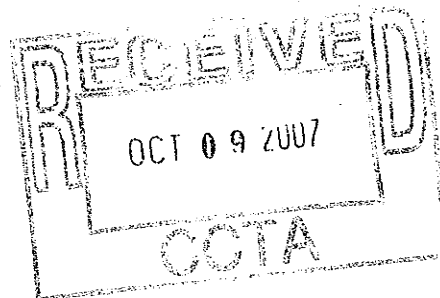
Contra
Costa
County



OCT. 17, 07 CCTA
Dennis M. Barry, AICP
Community Development Director

County Administration Building
651 Pine Street
Fourth Floor, North Wing
Martinez, California 94553-1229

Phone:



October 1, 2007

Mr. Robert McCleary
Executive Director
Contra Costa Transportation Authority
3478 Buskirk Avenue, Suite 100
Pleasant Hill, CA 94523

*Subject: September 20, 2007 letter regarding Interpretation of the ULL Principles
of Agreement for the Measure J GMP*

Bob
Dear Mr. McCleary:

Thank you for your assistance and prompt response to my recent inquiry that sought clarification as to the intent of the Measure J Growth Management Program with regard to the Local Voter Urban Limit Line (ULL) provisions under CCTA Ordinance 06-04.

Your September 20, 2007 letter provides the clarity needed to advise the Board of Supervisors of the Measure J GMP compliance implications when considering a future request for a General Plan Amendment study that would involve a shift of 30 acres or less of land area inside the County's voter-approved Urban Limit Line.

You also noted in your letter that the CCTA may consider future amendments to the Ordinance 06-04, so as to avoid confusion and clarify the intent and effect of the language under the original ULL Principles of Agreement for Measure J. We would, of course, gladly provide necessary assistance and support to the CCTA in reviewing these proposed amendments.

Sincerely,

Dennis M. Barry

Dennis M. Barry, AICP
Community Development Director

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**CONTRA COSTA
TRANSPORTATION AUTHORITY**

COPY

COMMISSIONERS:

September 20, 2007

Dennis Barry
Community Development Director
Contra Costa County
651 Pine Street
Fourth Floor, North Wing
Martinez, CA 94553-1229

RE: Your letter dated August 29, 2007, regarding Interpretation of the
ULL "Principles of Agreement" for the Measure J GMP

Dennis
Dear Mr. Barry:

This letter is in response to your above-referenced letter regarding the Measure J ULL Principles. The Authority's Planning Committee discussed your letter on September 5, 2007, and the full Authority reviewed and approved this response on September 19, 2007. Your letter requested the Authority's assistance in clarifying the intent of the Measure J GMP with regard to the Local Voter (LV) ULL provisions found in Ordinance 06-04, which revised and clarified the GMP ULL requirements under Measure J.

Your first question on paragraph 8.c. of the ULL "Principles," asks:

1. May a local jurisdiction consider boundary adjustments of less than 30 acres to the LV-ULL without limitation? Or, was the phrase "minor (less than 30 acres) nonconsecutive adjustment" inadvertently omitted in the drafting of CCTA Ordinance 06-04?

To address the latter part first, the phrase "minor (less than 30 acres) nonconsecutive adjustments," which appears in Principle 6 under the MAC-ULL provisions was inadvertently omitted in paragraph 8.c. of Ordinance 06-04.

Turning to the first part of your question, we understand that the intent of the drafters with respect to Principles 6 and 8 was the same, that is to prevent the use of multiple boundary adjustments of 30 acres or less in order to avoid the more-than-30 acre limitation; however, as you point out, paragraph 8.c does not address whether a jurisdiction may consider boundary adjustments of 30 acres or less to the LV-ULL without limitation. Although the intent of the drafters was not stated expressly in Principle 8, we understand that, like Principle 6, the provision was intended to allow adjustments of 30 acres or less under prescribed conditions.

In your second question, you ask:

2. If the phrase "minor (less 30 acres) nonconsecutive adjustment" was inadvertently omitted under 8.c., are we correct in recalling that consecutive ULL boundary adjustments were meant to mean that such adjustments would have to be proximate to each other and exceed 30 acres in

Charlie Abrams,
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Dave Hudson,
Vice Chair

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combination? A related question is whether a local jurisdiction may consider more than one boundary adjustment to the LV-ULL, each of less than 30 acres and not proximate to each other but in combination would exceed 30 acres?

The first part of the above question asks for the definition of "consecutive" ULL boundary adjustments. We agree that the term "nonconsecutive" is ambiguous. One could interpret "nonconsecutive" to mean that any jurisdiction making more than one adjustment to its voter-approved ULL is out of compliance with the GMP. The intent of the Measure was to allow adjustments of 30 acres or less within a limited set of conditions, provided those adjustments were non-contiguous (and not proximate to each other, as you suggest).

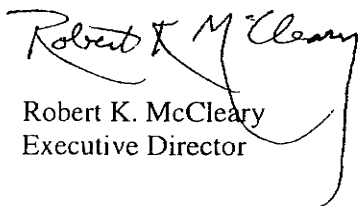
Our understanding of the use of the term "nonconsecutive" in the present instance was that it was intended to mean that adjustments should not be proximate to one another, and that in combination, these adjustments shall not result in amassing a contiguous parcel (or parcels) in excess of 30 acres. Furthermore, when considering these adjustments, the local jurisdiction should avoid the creation of pockets of land outside the ULL, specifically to avoid the possibility of wanting to fill in those pockets later on through separate adjustments.

To answer the second part of your question, we conclude that the intent of the drafters under Ordinance 06-04, was to allow consideration of more than one LV-ULL boundary adjustment, each of 30 acres or less, provided they are relatively isolated and well separated from each other. Again, the creation of pockets of land outside the ULL is to be avoided.

As noted above we believe that use of the term "nonconsecutive," coupled with its inadvertent omission from Principle 8 were not intended to change the effect of the language in the original Principles, that is, that contiguous annexations totaling more than 30 acres would require further voter approval. Because the 2006 revisions created some confusion regarding the intent of the changes, we are considering further amendments to clarify the intent and effect of the language, and we would welcome your participation in the review of any proposed amendments.

We hope that this letter adequately responds to your questions. Please feel free to contact me should you wish to discuss this matter further.

Sincerely,



Robert K. McCleary
Executive Director

cc: Supv. Susan Bonilla
Supv. John Gioia
Supv. Federal Glover
Supv. Mary Piepho
Supv. Gayle Uilkema
Authority Board

Community Development Department

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Phone:

Contra Costa County



Dennis M. Barry, AICP
Community Development Director

August 29, 2007

Mr. Robert McCleary, Executive Director
Contra Costa Transportation Authority
3478 Buskirk Avenue
Pleasant Hill, CA 94523

Subject: *Interpretation of Measure J, Growth Management Program, Attachment
"A", Principles of Agreement for Establishing the Urban Limit Line*

Bdb
Dear Mr. McCleary:

Since the passage of Measure J: Contra Costa's Transportation Sales Tax Expenditure Plan and Measure L: 2006 Voter-Approved Urban Limit Line, a question has arisen that relates to the interpretation of Attachment "A" to Measure J, the Principles of Agreement for Establishing the Urban Limit Line. At issue are questions relating to the Contra Costa Transportation Authority (CCTA) and voter intent in regard to minor (30 acres or less) nonconsecutive adjustments to the Urban Limit Line.

Specifically, as amended under Ordinance 06-04, 11/15/06, the Principles of Agreement at number 6 in reference to boundary adjustment to the Mutually Agreed Upon Countywide Urban Limit Line (MAC-ULL) in part reads "... will include provisions for periodic review (5 years) as well as provisions for minor (less than 30 acres) nonconsecutive adjustments". However, under the same amended Principles of Agreement in reference to boundary adjustments for the Local Voter Urban Limit Line (LV-ULL) under 8.c it states that "... a local jurisdiction can undertake adjustments of 30 acres or less to its adopted ULL, consistent with these Principles, without voter approval. However, any adjustment greater than 30 acres require voter approval and completion of the full County ULL or LV-ULL procedure as outlined above." A strict reading of 8.c. would mean that boundary adjustments of less than 30 acres may be considered by the local jurisdiction without limitation since the parallel language referring to "nonconsecutive" adjustments was apparently dropped under CCTA Ordinance 06-04. County staff's recollection is that when the Principles of Agreement were adopted by the CCTA for the Measure J ballot measure it was intended that a local jurisdiction could not consider ULL boundary adjustments that were proximate to each other and exceeded 30 acres in combination.

Recently, the Board of Supervisors considered a request from a landowner to authorize a General Plan Amendment study that included a proposal to shift 29.5 acres of land area inside the County's Urban Limit Line and to re-designate this land area from Agricultural Lands (AL), a non-urban use, to Single Family Residential-Low Density, an urban use. The Board ultimately declined to authorize the General Plan Amendment study. During the course of deliberation on this matter, the Board was advised by staff that there was a previous Board-authorized General Plan Amendment study for boundary adjustment to the County's Urban Limit Line occurring in another part of the County that involved a change of approximately 25 acres. This ongoing General Plan Amendment study includes a proposal for a simple ULL boundary adjustment involving an exchange between equally sized acreage inside and outside the ULL, and there would be no net increase of land area to be placed inside the ULL. When apprised of this ongoing General Plan Amendment study, several Board members were concerned that should another General Plan Amendment study be authorized for a boundary adjustment to place an additional 29.5 acres of land area inside the ULL (one not involving an exchange), this action could be found by CCTA to constitute grounds for a finding of non-compliance with the Measure J Growth Management Program.

Your assistance is requested in clarifying the intent of the Measure J Growth Management Program in reference to the LV-ULL under the Principles of Agreement. The following questions are specifically related to 8.c. under the Principles of Agreement, as amended under CCTA Ordinance 06-44:

1. May a local jurisdiction consider boundary adjustments of less than 30 acres to the LV-ULL without limitation? Or, was the phrase "minor (less than 30 acres) nonconsecutive adjustment" inadvertently omitted in the drafting of CCTA Ordinance 06-04?
2. If the phrase "minor (less than 30 acres) nonconsecutive adjustment" was inadvertently omitted under 8.c, are we correct in recalling that consecutive ULL boundary adjustments were meant to mean that such adjustments would have to be proximate to each other and exceed 30 acres in combination? A related question is whether a local jurisdiction may consider more than one boundary adjustment to the LV-ULL, each of less than 30 acres and not proximate to each other but in combination would exceed 30 acres?

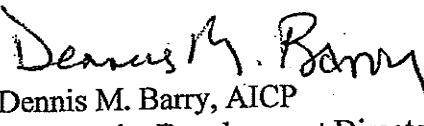
CCTA's interpretation or guidance on these questions would be helpful in advising the Board of Supervisors on Measure J implications should they want to consider requests in the future for General Plan Amendment studies that involve adjustments of less than 30 acres to the County's ULL.

Ltr. to Robert McCleary, CCTA
8/29/2007
Page Three

Thank you for your assistance in this matter. I look forward to CCTA's input on the interpretation of the Measure J Growth Management Program requirement related to the LV-ULL.

Should you or members of your staff have questions regarding this request, please feel free to contact me.

Sincerely yours,


Dennis M. Barry, AICP
Community Development Director

CC: chron file