

Letter 31

**Natural Resource Commission Comments on the
Mace Ranch Innovation Center Draft EIR (DEIR)**

Approved October 26, 2015

Reference	Topic	Comment/Recommendation
Mace Ranch Innovation Center DEIR		
<p>4.7-2</p> <p>Cross references: Mitigation Measure 4.7-2</p> <p>GHG Section</p>	<p>GHG</p>	<p>Mitigation Measure 4.7-2a establishes a priority scheme for GHG emission reductions when the particular development activity does not meet the GHG target according to the modeling. It is unclear how these priorities will be enforced and the mechanism for evaluating cost and feasibility.</p> <p>In addition, some of the reductions may not be able to be implemented before the issuance of the permit. Commitments to implement those reductions should be addressed in the Measure.</p> <p><u>Commission Recommendation:</u> This mitigation measure should be amended to ensure that the priority scheme is enforceable and the applicant is required to provide the analysis supporting its chosen reductions. This mitigation measure could provide clarity as to when lower priority reductions might be appropriate (i.e., cost/feasibility).</p> <p>Mitigation Measure 4.7-2b requires 5 year GHG Reports for the Innovation Center to be prepared. This mitigation measure seems to require only performance data to be reported in the document</p> <p><u>Commission Recommendation:</u> This mitigation measure should be amended to require that the projected GHG emissions from the phases of the project that are now operating to be included in the report (from the Technical Memorandum of Compliance required in the prior Mitigation Measure).</p>
<p>p. 4.8 - 16</p> <p>Cross References:</p>		<p><u>Comment:</u> Footnote 12 is used as citation to a Cal. Office of Emergency Services interactive map of high hazard zones. The link provided (http://www.caloes.ca.gov/HazardousMaterials/Pages/Oil-By-Rail.aspx) does not send the reader to the interactive map, although it may have as of March 2015.</p> <p><u>Recommendation:</u> Update citation to provide current link, if any. (http://california.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=928033ed043148598f7e511a95072b89 ?)</p>

31-1

31-2

**Letter 31
Cont'd**

31-3

Chapter 8	Mixed-Use Alternative	<p><u>Comment:</u> The analysis of the Mixed-Use Alternative should be robust enough to support serious consideration by the City Council. Minimally, this would require an analysis of the sensitivity of transportation and GHG impacts to the assumption of 1.62 employees per household.</p>
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pp. 4.8 – 4-16 & pp. 8 – 87-88 (mixed-use alternative) Cross References:	Hazards and Hazardous Materials – Nearby Uses, UPRR	<p><u>Comment:</u> According to the DEIR, the Union Pacific Railroad line is 66 feet from the southern edge of the Mace Triangle site and 106 feet from the southeastern border of the MRIC site. The DEIR states that the nearest MRIC buildings are to be located 256 feet from the tracks. Thus, a portion of the project area will be within a half-mile of the Union Pacific Railroad tracks and Interstate 80, which other documents suggest is the area of mandatory evacuation in the event of a release of an explosive or flammable material.</p> <p><u>Recommendation:</u> The MRIC DEIR’s discussion of physical and regulatory factors that minimize potential risks to the site are relevant. However, recommend amending analysis for consistency with points raised in the City’s Nishi Gateway DEIR (see pp. 4.08 – 21-22), for example: -“Although the risk of upset conditions is moderated through compliance with various federal, state, and industry regulations, there is a hazard associated with the potential for train accidents and spill, as well as possible ignition, of hazardous materials.” -“As a result, should accident conditions occur along the UPRR line [. . .], potential hazards to on-site residents [at least under mixed-use alternative and to others on-site in any case], as well as residents of the City in general, would be substantial.” -“Development of the [MRIC and Mace Triangle] site would result in construction of [populated buildings, residences under mixed-use alternative] in proximity to major transportation corridors that are used to transport hazardous and flammable materials. However, construction and operation of the project would not increase the hazard associated with operation of the highway and railroad.”</p>
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p. 4.8 - 16 Cross References:		<p><u>Comment:</u> Footnote 12 is used as citation to a Cal. Office of Emergency Services interactive map of high hazard zones. The link provided (http://www.caloes.ca.gov/HazardousMaterials/Pages/Oil-By-Rail.aspx) does not send the reader to the interactive map, although it may have as of March 2015.</p> <p><u>Recommendation:</u> Update citation to provide current link, if any. (http://california.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=928033ed043148598f7e511a95072b89 ?)</p>
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**Letter 31
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<p>Cross References: 4.3-2 AQ section, pg 4.3-28 Executive Summary, Table 2-3: p. 2-21</p>	<p>AQ</p>	<p><u>Comments:</u> The ROG and NOx levels proposed almost double the YSAQMD, creates regional impacts, creates ozone</p> <p><i>Stated Mitigation # 4.3-2: Prior to issuance of any building permits, the project applicant shall show on project plans via notation that only zero-VOC paints, finishes, adhesives, and cleaning supplies shall be used for all buildings on the project site. Project plans shall be subject to review and approval by the Department of Community Development and Sustainability.</i></p> <p>That addresses ROG (VOCs), but does not address NOx. What about PM10 (diesel, construction equipment, tires, brakes)?</p> <p>It appears that they are passing the buck - the next builder/project in the area will have to overcompensate to keep the regional levels down</p> <p>The document underestimates the impacts because it assumes office buildings and not manufacturing or labs (such as venting).</p> <p><u>Recommendation:</u> If it is significant and unavoidable: perhaps the applicant might purchase emission credit offsets?</p> <p>Ideas for Mitigation Measures: Have the applicant pay to electrify the Yolo Short Line. It is short enough to make it happen. Or purchase new locomotives that are meeting the 2008 emissions standards. Newest models have large drops in emissions.</p> <p>The City could build in permitting requirements for future operations/tenants for air quality issues (It is unclear whether future occupants may be manufacturing, which could generate ROG or toxics. It is unclear what they might be producing or using. For instance solvents or fertilizer.)</p> <p>The applicant could pay into a fund for the City or County to create a car scrappage program for pre-2004 automobiles (in the YSAQMD). (Such a voluntary accelerated vehicle retirement program could be a regional program because NOx and ROG are airshed impacts.)</p>
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<p>Cross References: Executive</p>	<p>AQ</p>	<p><u>Comment:</u> In the Executive Summary, Table 2-3, the Air Quality section, it does not spell out that they are talking about NOx, PM10 and ROG at all. Misleading for people who are only reading the Executive Summary.</p>
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Summary, Table 2-3, page 2-21		<u>Recommendation:</u> Create clarifying text in that section.
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Cross References: General	GHG	<p><u>Comment:</u> Water-related GHG emissions (the DEIR does not mention the new water supply in Davis as of 2017). What are the assumptions about Davis' water supply? Do calculations assume the current system or the new system which will rely on surface water? For the 80% of the irrigation water, which comes from an on site well, there will be electricity usage, which creates a GHG impact. Has this been calculate?</p> <p><u>Recommendation:</u> (To mitigate, need to reduce their irrigation demand – better landscaping.)</p> <p>NOTE: These issues appear to be addressed in the updated draft Sustainability plan.</p>
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31-9

Cross References:	GHG	<p><u>Comment:</u> 10% decrease in VMT is a low bar as a mitigation for a project of this magnitude. What else can be done specifically? Need more accountability and coordination with the city's overall plans to get to zero carbon. This project will increase the demand for housing and growth inducing impacts are significant.</p> <p><u>Suggestions for mitigation measures:</u></p> <ul style="list-style-type: none"> ▪ AB32 Allowance Auction to mitigate emissions – buy allowances/emission credits elsewhere (secondary or state market) – perhaps out of the transportation side; or ▪ Stipulate that the Applicant buys credits inside of Davis (perhaps via a Green Revolving Fund which could be established and used in the future for a variety of purposes that serve the CAAP's goals.) ▪ Build out the solar panels more in the project design. (How much of the capability is actually planned? Install the below-ground wiring for additional solar panels for the future even if they do not build additional solar panels now. It saves emissions from construction later.) ▪ Electrifying building energy for heating and hot water (not using natural gas, which causes methane and CO2 emissions) ▪ Maximize energy efficiency measures in the building (“Incorporate LEED Silver/Gold building standards.” –NOTE: This seems to be the goal in the Sustainability plan and may be addressed. ▪ Construct EV charging wire in every parking space (build the infrastructure for future use, the costs are huge after the fact).
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**Letter 31
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31-9 Cont'd		<ul style="list-style-type: none"> ▪ Work with technology for using EV vehicles to smooth out electricity discharge from solar panels. Or 3-way flow between buildings, solar panels, and EV charging.--- need to codify these things, put them on paper as mitigation measures
31-10	Section 4.3-2, p 4.3-25 Air Quality	<p><u>Comment:</u> Stationary sources cited for the development (p 4.3-25) seem to be those of a typical office development. There is significant manufacturing proposed. Research labs have hoods. How are they counted? (Report cites hair spray but ignores 884k SF of proposed manufacturing.)</p> <p><u>Recommendation:</u> DEIR should discuss potential emissions from manufacturers and R&D facilities.</p>
31-11	Section 4.3-3, p 4.3-28 Air Quality	<p><u>Comment:</u> Potential development of vacant land seems to have been ignored. Report says closest sensitive receptor is 660 ft away and does not allow for future development in places like the inside of the Mace curve.</p> <p><u>Recommendation:</u> Revisit the conclusion that the impact is less than significant in light of the smaller distances to potential development.</p>
31-12	Impact 4.7-2 Green-house Gases	<p><u>Comment:</u> The schedule of GHG targets for the project that are listed in Mitigation Measure 4.7-2(a) is not consistent with the city's CAAP targets listed in Table 4.7-6. The city's goals for 2020, for instance, are "28% below 1990". What is intended is that total city emissions be 28% below <u>actual</u> 1990 emissions. The project target, as specified in the table, is 28.3% below a hypothetical 1990 level of emissions as determined by CalEEMod. Consequently, at a time when the city is attempting to ratchet down its emissions from current levels, the project proposes to increase city emissions by 24,199 MTCO_{2e}/yr (Table 4.7-4). Viewed in this light, the project is a step backwards from achieving the CAAP goals. The EIR calls this a significant and unavoidable. It is significant, but does it have to be unavoidable?</p> <p><u>Recommendation:</u> The applicant should propose a more aggressive mitigation measure. In theory, new projects should produce "negative" emissions to avoid increasing city emissions and interfering with its progress toward the CAAP targets. So the mitigation measure should include provisions for minimizing the project emissions plus offsetting its emissions by facilitating source reductions elsewhere in the city.</p>

**Letter 31
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		The DEIR should present an analysis of the feasibility of reducing GHG emissions below those presented in Table 4.7-4. Table 4.7-6 should be revised to reflect the correct interpretation of the CAAP.
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LETTER 31: NATURAL RESOURCES COMMISSION, CITY OF DAVIS

Response to Comment 31-1

Mitigation Measure 4.7-2(a) would be adopted as a condition of approval and would be enforceable by the City under police powers. Please see Master Response #4, Guarantee of Developer Performance. As specified in the measure, all steps of the process would be subject to the review and approval of the Department of Community Development and Sustainability. The City may choose to engage a qualified consulting expert to provide a peer review of the applicant's submittal. The actions by staff with regard to the review and approval of the applicant's submittal are appealable to the City Council pursuant to Section 40.35.020 of the Zoning Ordinance. Further details regarding implementation will be identified in the required Mitigation Monitoring and Reporting Program (MMRP), which will be adopted at the time of final action on the project.

The specific priorities identified under the item #4 of Mitigation Measure 4.7-2(a), and when shifting between them is appropriate, would be subject to the review and approval by the City of Davis as the monitoring party for implementation of the mitigation measure. Further as noted under items #6 and #7 of this measure, the applicant would be required to provide technical data before and after implementation of any GHG reduction action pursuant to Mitigation Measure 4.7-2(a), consistent with this comment.

Response to Comment 31-2

Thank you. The footnote 12 on page 4.8-16 of Section 4.8, Hazards and Hazardous Materials, is hereby revised to reflect the changed web link as follows:

¹ California Office of Emergency Services. *Interactive Tool: Rail Risk & Response Map*. Available at: <http://www.caloes.ca.gov/HazardousMaterials/Pages/Oil-By-Rail.aspx>
<http://california.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=928033ed043148598f7e511a95072b89>. Accessed March 2015.

Response to Comment 31-3

The Mixed-Use Alternative was analyzed at a level of detail equivalent to that of the project. The EIR would support approval of the Mixed-Use project alternative should the City Council take this action.

The assumption of 1.62 employees per household is based on sound data and analysis. It represents the existing average number of employees in Davis households that have at least one employed member. Some of the MRIC employees will share households with members who are employed at locations outside of MRIC; however, some MRIC employees will also live in households that are already located in Davis, and thus will not create new local housing demand.

Response to Comment 31-4

The potential risks associated with Union Pacific Railroad (UPRR) transport of crude oil are different for the Nishi Project and the MRIC Project. As discussed on page 4.8-15 of Section 4.8 of the Draft EIR, the potential for crude oil train incidents was determined to be less-than-significant for the portion of the UPRR tracks near the MRIC project site. The tracks in this area are straight and are not located in close proximity to curves. The tracks are also relatively flat, with little to no change in elevation. If a train carrying crude oil was subject to improper application of brakes (i.e. human error) along this portion of the tracks, the situation would not have significant potential to be exacerbated by the physical conditions in the area. An at-grade crossing is located east of the City limits at County Road (CR) 32A/CR 105, which is over half a mile east of the proposed project site.

The circumstances are different for the Nishi Project. As noted on page 4.8-6 of the Nishi Gateway Project EIR,⁸

The train tracks adjacent to the Nishi site are straight and elevated above the property by ballast. There is an at-grade road crossing at the east end of Arboretum Drive at the northernmost corner of the Nishi site, and an elevated crossing over Richards Boulevard. East of the project site, the tracks curve and the speed limit is reduced to 30 miles per hour near the Davis Amtrak Station. As the entire project site is located within 0.25 miles of the UPRR line, it is considered to be within the initial evacuation zone (0.5 mile from rail corridors) for train derailments involving flammable liquids and gases that is established in the Pipeline and Hazardous Materials Safety Administration's 2012 Emergency Response Guidebook.

In summary, the potential for crude oil train incidents is less-than-significant for the portion of the UPRR tracks nearest the project site and the suggested language does not need to be added to the Draft EIR.

Response to Comment 31-5

Please see Response to Comment 31-2.

Response to Comment 31-6

Impact 4.3-2 addresses operational air quality emissions resulting from the proposed project. This impact is identified in the Draft EIR as significant and unavoidable given the substantial amount of operational emissions that would be generated by the proposed project, and the extent to which they would exceed the YSAQMD's thresholds, thereby rendering it infeasible to reduce the project's operational emissions to below the YSAQMD's thresholds. As the commenter acknowledges, the Draft EIR includes Mitigation Measure 4.3-2, aimed at reducing reactive organic gas (ROG) emissions through requiring the use of zero-VOC paints for the project. Additional mitigation measures were not included to reduce oxides of nitrogen (NO_x) or respirable particulate matter (PM₁₀) emissions, because such emissions are primarily attributable

⁸ Ascent Environmental. *Nishi Gateway Project Environmental Impact Report*. September 2015, page 4.8-6.

to the project's mobile emissions. While mobile emissions could be reduced through certain mitigation measures, the Draft EIR already includes measures aimed at reducing the proposed project's NO_x, PM₁₀, and other mobile pollutants. For example, Mitigation Measure 4.14-6 requires implementation of a Travel Demand Management (TDM) Program for the project, which will reduce vehicle trips by a minimum of 10 percent. In addition, the project's greenhouse gas (GHG) mitigation measure (Mitigation Measure 4.7-2) includes components that shall be implemented if specified GHG reduction targets are not achieved during each project phase. Mitigation options selected by the developer in conjunction with the City that would result in a reduction in GHG emissions will also result in an associated reduction in NO_x and PM₁₀ emissions.

In a further effort to help reduce mobile NO_x and PM₁₀ emissions, Mitigation Measure 4.3-2 has been revised in this Final EIR to require electrical vehicle charging stations throughout each phase of development. Please see Response to Comment 25-8. The City believes that this revised measure, in conjunction with many measures of the TDM program (Mitigation Measure 4.14-6) would promote and support the use of alternative-fuel vehicles and alternative modes of transportation, rather than gasoline-fueled vehicles, which would help to reduce the project's mobile emissions, including NO_x and PM₁₀ emissions. Please see Response to Comment 31-12.

As the proposed project's direct mobile NO_x and PM₁₀ emissions cannot be feasibly reduced further, in an effort to help reduce regional NO_x and PM₁₀ emissions, an additional mitigation measure has been added per this Final EIR allowing for emissions offsets. In addition, the measure would help to reduce area and mobile source ROG emissions. Page 4.3-28, Mitigation Measure 4.3-2, has been revised as follows:

MRIC and Mace Triangle

~~4.3-2~~ ~~*Prior to issuance of any building permits, the project applicant shall show on project plans via notation that only zero VOC paints, finishes, adhesives, and cleaning supplies shall be used for all buildings on the project site. Project plans shall be subject to review and approval by the Department of Community Development and Sustainability.*~~

4.3-2 *Prior to issuance of any entitlement or permit, the project applicant shall work with the City of Davis, the YSAQMD, and/or other air districts within the region (as appropriate) to develop and implement a strategy to mitigate ROG and NO_x, and PM₁₀. The strategy must reduce emissions from project operation to levels at or below the applicable YSAQMD thresholds of significance to the maximum extent feasible. Feasible on-site actions to reduce emissions shall receive highest priority for implementation. Emissions that cannot be reduced through on-site actions shall be mitigated through off-site action. The strategy and all actions shall be subject to review and approval by the City in consultation with the YSAQMD, and, if applicable, the air quality management district or air pollution control district within which the mitigation project is located. On-site actions may include, but shall not be limited to the following:*

- Reducing on-site parking lot area;
- Using concrete or other non-emitting materials for parking lots instead of asphalt;
- Limiting on-site parking supply;
- Using passive heating and cooling systems for buildings;
- Using natural lighting in buildings to the extent practical;
- Installing mechanical air conditioners and refrigeration units that use non-ozone depleting chemicals;
- Providing electric outlets outside of buildings, sufficient to allow for use of electric landscaping equipment;
- Hiring landscaping companies that use primarily electric landscaping equipment;
- Use of zero-VOC paints, finishes, adhesives, and cleaning supplies on all buildings on the project site.
- Hiring janitorial companies that use only low-VOC cleaning supplies;
- Employing vehicle fleets that use only cleaner-burning fuels;
- Providing electrical vehicle charging stations in each phase of the project.

Off-site actions may include, but shall not be limited to, the following:

- Retrofitting stationary sources such as back-up generators or boilers with new technologies that reduce emissions;
- Replacing diesel agriculture water pumps with alternative fuels;
- Funding projects within an adopted bicycle/pedestrian plan;
- Replacing non-USEPA wood-burning devices with natural gas or USEPA-approved fireplaces;
- Providing energy efficiency upgrades at government buildings;
- Installing alternative energy supply on buildings;
- Replacing older landscape maintenance equipment with newer, lower-emission equipment;
- Payment of mitigation fees into an established air district emissions offset program.

The Reduction Strategy shall include requirements to ensure it is enforceable and measurable. A mechanism for oversight, monitoring and reporting through the project Master Owners Association (MOA) to the City shall be included as a part of the strategy. Because ROG, NOx, and PM10 are pollutants of regional concern, the emissions reductions for these pollutants may occur anywhere within the lower Sacramento Valley Air Basin (e.g., within YSAQMD, the Sacramento Metropolitan Air Quality Management District, or the Placer County Air Pollution Control District). Emissions reductions should occur within the YSAQMD, if reasonably available.

Construction-related emissions of ROG, NO_x, and PM₁₀ were addressed on pages 4.3-23 through 4.3-25 of the Draft EIR. According to Table 4.3-6 on page 4.3-24 of the Draft EIR, the proposed project's construction generated emissions, including ROG, NO_x, and PM₁₀, were estimated to be below the applicable YSAQMD's thresholds of significance. According to the revisions to Table 4.3-6, as updated in this Final EIR (please see Response to Comment 45-20), the estimate of the proposed project's construction-related emissions has increased from what was presented in the Draft EIR; however, the emissions would still be below the applicable thresholds of significance.

Please also see Response to Comment 31-10 regarding manufacturing uses.

Response to Comment 31-7

Comment noted. In response to the comment, page 2-21 of Table 2-3 is revised to address this. Please see Chapter 2 and Appendix A, Revised Summary Table.

Response to Comment 31-8

Indirect GHG emissions associated with the energy usage related to water supply and distribution was accounted for in the project modeling. The California Emissions Estimator Model (CalEEMod) inherently calculates such GHG emissions using the average electricity intensity values for either northern or southern California, depending on the project's location.⁹ Any changes to default values in the model should be supported by substantial evidence. Site- and project-specific values for electricity intensities associated with water supply and delivery are difficult to determine and ascertain, as they are based on the water supply source, distance and means of transport to treatment, type of treatment, and distance and means of distribution. In lieu of such data that would support a modification to the default values within the model, the default values within the model should be used. While the inherent electricity intensity values in the model may not be exactly representative of the site and/or project, they represent a reasonable assumption for GHG estimation purposes and are based on scientific data and substantial evidence.

It should be noted that the project applicant proposes to implement sustainability features that would include various water minimization practices, which would help to reduce the proposed project's water usage and, subsequently, the associated indirect GHG emissions. For example, as stated on page 3-48 of the Draft EIR, the project applicant proposes to utilize drought-tolerant plantings, and promote water conservation and reduction including the utilization of smart and/or high-efficiency fixtures and appliances.

Response to Comment 31-9

The comment that the 10 percent vehicle trip reduction is a low bar for a project of this magnitude is noted. This target was chosen based on a consideration of the project's employment

⁹ ENVIRON International Corporation and the California Air Districts. *California Emissions Estimator Model User's Guide Version 2013.2* [pg. 35]. July 2013.

focus, peripheral location, limited transit service, and tight housing market in Davis. It is further supported by an August 2010 technical assistance publication published by the California Air Pollution Control Officers Association (CAPCOA) entitled “*Quantifying Greenhouse Gas Mitigation Measures: A Resource for Local Government to Assess Emission Reductions from Greenhouse Gas Mitigation Measures*”. This document provides recommendations on appropriate VMT reductions for projects based on the application of different TDM strategies. The following is an excerpt from page 58 of the document. CAPCOA recommends that the maximum VMT reduction, resulting from application of a combination of TDM measures, for a suburban site with characteristics similar to the MRIC Project be capped at 10 percent as shown below:

“Cross-Category Maximum- A cross-category maximum is provided for any combination of land use, neighborhood enhancements, parking, and transit strategies...The total project VMT reduction across these categories should be capped at these levels based on empirical evidence.¹⁰ Caps are provided for the location/development type of the project. VMT reductions may be multiplied across the four categories up to this maximum. These include:

- *Urban: 70% VMT*
- *Compact Infill: 35%*
- *Suburban Center (or Suburban with NEV): 15%*
- ***Suburban: 10%** (note that projects with this level of reduction must include a diverse land use mix, workforce housing, and project-specific transit; limited empirical evidence is available)*

Mitigation Measure 4.14-6(a) also includes a requirement that the project TDM program reduce trips to achieve an Average Vehicle Ridership (AVR) of 1.5, per Davis Municipal Code 22.15.060. The requirement will require a higher level of trip reduction than the 10 percent vehicle trip reduction metric.

The mitigation measures suggested by the commenter for GHG impacts fit within categories and options already identified in Mitigation Measure 4.7-2. Mitigation Measure 4.7-2 allows for a variety of measures to be incorporated to meet the established GHG reduction targets. In addition to setting measurable thresholds, Mitigation Measure 4.7-2 provides a priority list for assessing specific actions:

- *First priority – building specific actions*
- *Second priority – onsite (within MRIC) actions*
- *Third priority – community based (within Davis) actions*
- *Fourth priority – pay GHG reduction fees (carbon offsets) into a qualified existing local program, if one is in place*
- *Fifth priority – other demonstrated method of reducing emissions*

All of the commenter’s suggested mitigation measures fit within these categories of prioritization.

¹⁰ As reported by Holtzclaw, et al for the State of California.

In addition, impacts related to increased housing demand were analyzed on pages 4.12-12 through 4.12-21 of Section 4.12, Population and Housing, of the Draft EIR. The analysis includes discussions related to employment potential, employee housing demand projections, and the jobs/housing balance. Impacts related to substantial population growth were determined to be significant and unavoidable.

Furthermore, growth-inducing impacts were analyzed on pages 6-1 through 6-4 of Chapter 6, Other CEQA Sections, of the Draft EIR. The analysis examines the following potential growth-inducing impacts related to implementation of the proposed project and assesses whether these effects are significant and adverse (see *CEQA Guidelines*, Section 15126.2[d]):

1. Foster population and economic growth and construction of housing.
2. Eliminate obstacles to population growth.
3. Affect service levels, facility capacity, or infrastructure demand.
4. Encourage or facilitate other activities that could significantly affect the environment.

Growth-inducing impacts related to population, economic growth, construction of housing, service levels, and infrastructure demand were determined to be significant and unavoidable. In addition, growth-inducing impacts related to eliminating obstacles to population growth were determined to be less than significant.

Response to Comment 31-10

Potential emissions from the manufacturing and research and development (R&D) facilities were accounted for in Section 4.3, Air Quality, and Section 4.7, Greenhouse Gas Emissions and Energy, of the Draft EIR. In addition, the CalEEMod outputs were included as Appendices C and E of the Draft EIR. As shown on page 1 of Appendix C, a total of 1,555,900 square feet of R&D uses and 884,000 square feet of manufacturing uses were included in the Land Usage portion of the CalEEMod outputs. In addition, as shown on page 27 of Appendix E of the Draft EIR, a total of 1,555,900 square feet of R&D uses and 884,000 square feet of manufacturing uses were included in the Land Usage portion of the CalEEMod outputs.

According to the CalEEMod User's Guide, the "Manufacturing" land use sub-type is defined as manufacturing facilities where the primary activity is the conversion of raw materials or parts into finished products. In addition, the "Manufacturing" land use sub-type generally has office, warehouse, or R&D functions at the site. The "Research & Development" land use sub-type is defined by the CalEEMod User's Guide as R&D centers devoted almost exclusively to R&D activities. The range of specific types of businesses contained in the "Research & Development" land use sub-type varies significantly. R&D centers may contain offices and light fabrication areas.

As stated on page 3-13 of the Draft EIR, permit(s) to operate would be required from the YSAQMD for any uses involving stationary sources. Prior to occupancy of a building with a use that would generate stationary sources, future applicants for manufacturing or R&D uses that would involve stationary sources would be required to obtain two permits from the YSAQMD in order to operate stationary sources. The first, before construction begins, is the Authority to

Construct (ATC). After construction and a demonstration of compliance, the Permit to Operate (PTO) is issued.

Fume hoods serve to limit exposure to hazardous or toxic fumes, vapor, or other particulate matter. Any future on-site uses involving the handling, storage, or treatment, in any fashion, of hazardous materials, as defined in Section 40.01.010 of the City of Davis Municipal Code would be required to comply with all applicable federal, State, and local hazards regulations. Compliance with such would ensure that any toxics are adequately handled and managed. The presence of fume hoods at future on-site research centers would be beneficial to air quality.

Response to Comment 31-11

Please see Response to Comment 45-44. The obligation under CEQA is to assess impacts based generally on a comparison to existing conditions. While there has been community discussion about this parcel, at this time it is within unincorporated County and not shown in Davis GP for urban uses. The land referenced by the commenter inside of the Mace Boulevard curve (also known as the Signature property) is designated and zoned for agricultural uses by Yolo County (i.e., zoned Agricultural Intensive [A-N] and designated Agriculture [AG]). The General Plan Update Steering Committee Recommendations (approved March 20, 2008) identified it as a “yellow light” site, for development of 350 to 472 units. It would require a general plan amendment, rezoning, and Measure R vote. The City has no application for development of the site. As such, analysis of the proposed project’s impacts on theoretical future development at the Signature property would be speculative.

The vacant area south of Frances Harper Junior High School, within the Mace Boulevard curve, is designated and zoned for Public-Semi Public uses by the City of Davis; however, potential future development of this vacant area would be approximately 1,575 feet or further west from the western MRIC site boundary.

Response to Comment 31-12

Mitigation Measure 4.7-2(a) establishes GHG emissions reductions of 32.5% by 2020, 57.5% by 2030, 82.5% by 2040 and 100% by 2050. These thresholds all exceed the City’s target reduction thresholds for those years. Moreover, as discussed on page 4.7-29 of the Draft EIR, calculated project emissions for 2020 and 2030, after accounting for mitigation, demonstrate compliance with State 2020 and 2030 targets and the City’s desired 2020 target. The Draft EIR text (page 4.7-29) discusses that modeling for 2040 and 2050 is highly speculative at this time due to an inability to predict legislation, policy, future regulatory requirements, and likely technological advances.

The comment requests a more aggressive mitigation measure to reduce anticipated emissions consistent with the City’s goal of carbon neutrality by 2050 but does not propose specific measures. As noted on pages 4.7-28 through 4.7-34 of Section 4.7, Greenhouse Gas Emissions and Energy, of the Draft EIR, implementation of Mitigation Measures 4.7-2(a) and 4.7-2(b) would require the applicant to reduce emissions consistent with the City’s GHG emissions reduction goals leading up to 2050 and the City’s goal of carbon neutrality in 2050. The measure

ensures meaningful progress towards the City's 2050 emission reduction goals; however, because 2050 compliance cannot be shown with certainty, the City has concluded that the project's GHG emissions impacts may be significant and unavoidable.

The majority of GHG emissions related to the project are mobile emissions. The project, by itself, cannot feasibly eliminate mobile source emissions. The Draft EIR includes measures aimed at reducing GHG emissions and other mobile pollutants to the extent reasonably feasible. For example, Mitigation Measure 4.14-6 requires implementation of a Travel Demand Management (TDM) Program for the project, which will reduce vehicle trips by a minimum of 10 percent. In addition, Mitigation Measure 4.7-2 includes components that shall be selected by the developer in conjunction with the City that would be implemented if specified GHG reduction targets are not achieved during each project phase. Furthermore, Mitigation Measure 4.3-2 has been revised in this Final EIR to require electrical vehicle charging stations throughout each phase of development, which would help to reduce the project's mobile emissions (see Response to Comment 31-6 above). As discussed throughout Section 4.7 of the Draft EIR and below, mobile source emissions are expected to be reduced in the future through regulatory actions, as well.

Regarding the project's non-mobile-source GHG emissions, which are primarily associated with energy used to heat and cool buildings, provide lighting, and deliver water to the site, the project would include on-site renewable energy sufficient to supply a minimum of 50 percent of the energy requirements of the project (see page 4.7-24 of the Draft EIR). A higher percentage of on-site renewable energy may occur, but is speculative at this time. The space and infrastructure necessary to provide increased on-site renewable energy sufficient to reduce the project's total non-mobile energy use would likely require tradeoffs of green space and/or other design considerations and thus cannot be determined with certainty at this time. Nonetheless, as stated on page 4.7-29 of the Draft EIR, the proposed project includes features intended to reduce its GHG emissions to the extent feasible at this time; however, a number of uncertainties exist related to the actual buildout of the project, the GHG emissions reductions due to sustainability features of the project, additional state-mandated low carbon fuel standards, percentage of electric vehicles traveling to/from the site, etc. In addition, as discussed throughout Section 4.7 of the Draft EIR and below, regulatory changes are expected to further reduce GHG emissions.

Regulations governing GHG emissions in California have dramatically altered the trajectory of GHG emissions already, as outlined in the Draft EIR. As discussed on page 4.7-29 of the Draft EIR, the trajectory is expected to continue, in response to legislation, executive orders, and actions at the federal level. For instance, new legislation was recently passed (Senate Bill 350) which requires that, by 2030, 50 percent of all electricity provided by power plants is renewable. As discussed in the Draft EIR, Governor Brown issued an Executive Order, B-30-15, establishing a State-wide-GHG target of 40 percent below 1990 levels by 2030. The Air Resources Board is in the process of updating the Scoping Plan to incorporate the targets, which, based on recent history, would be expected to lead to future regulatory standards including a higher commitment to electric vehicle use. In addition, the federal government is acting by providing new GHG emissions targets at power plants.

With regard to Senate Bill 350, the bill requires the State Energy Resources Conservation and Development Commission to establish annual targets for statewide energy efficiency savings and demand reduction that would achieve a cumulative doubling of statewide energy efficiency savings in electricity and natural gas by retail customers by 2030. The bill requires the California Public Utilities Commission to establish efficiency targets for investor-owned electrical and gas corporations consistent with the 2030 goal, and the California Energy Commission to establish annual targets for energy efficiency savings and demand reductions for local publicly-owned electric utilities consistent with the 2030 goal. Each retailer of electricity must regularly file an integrated resource plan (IRP) for review and approval.

Senate Bill 350 adds Section 740.12(a)(1) to the Public Utilities Code, which describes how widespread transportation electrification is needed to achieve goals set forth by the State related to GHG emissions reductions. Based on Section 740.12(a)(1) of the Public Utilities Code, according to the State Alternative Fuels Plan analysis by the California Energy Commission and the California Air Resources Board, light-, medium-, and heavy-duty vehicle electrification would result in approximately 70 percent fewer GHGs emitted, over 85 percent fewer ozone-forming air pollutants emitted, and an 100 percent reduction in petroleum usage. Such reductions would become larger as renewable generation increases. Widespread transportation electrification would require increased access to the use of electricity as a transportation fuel. As such, transportation electrification is required to be addressed in the IRPs.

SB 350 implicitly acknowledges the uncertainty regarding the timing and extent that the transportation system would be electrified, as well as the associated potential increase in retail sales and GHG emissions. Accordingly, SB 350 provides that RPS enforcement could be waived if a retail seller demonstrates that the RPS target was missed due to transportation electrification exceeding demand forecasts. Mitigation Measure 4.3-2 has been revised in this Final EIR to require electrical vehicle charging stations throughout each phase of development of the proposed project (see Response to Comment 25-8), which may not only help to reduce the project's mobile emissions, but would also help the local electricity retailer increase access to the use of electricity as a transportation fuel and address impending widespread transportation electrification.

Many of the federal and State standards and programs would ultimately serve to reduce GHG emissions at the MRIC site by, for instance, reducing the GHG emissions associated with providing energy to the project. Given the dynamic nature of regulations and standards that will govern GHG emissions, quantification of such reductions are not possible at this time. As noted in the Draft EIR, the project would be required, through implementation of the mitigation measures shown on pages 4.7-30 through 4.7-34 of the Draft EIR, to reduce project-related emissions, including after construction (through implementation of Mitigation Measure 4.7-2(a)). The reductions required by these mitigation measures, as well as those that will likely be realized through future regulatory compliance, would reduce emissions consistent with efforts being taken by the City of Davis on a citywide basis and with a goal of carbon neutrality by 2050. The conclusion of significant and unavoidable is based on what is achievable in terms of net reductions in GHG emissions today, and the inability to predict future actions, including programs to offset GHG emissions from the site.

Projects are only responsibly under CEQA for addressing their own impacts. The concept of “negative emissions” suggests an obligation to mitigate for emissions from outside the project. However, there is no nexus to require this project to address impacts beyond those reasonably related to the project. To the extent the City wishes to explore this idea, and the applicant agrees, it could be included in the Development Agreement.

The subject project would be developed on land and with land uses that were not anticipated in the City CCAP. When the City developed its Climate Action and Adaptation Plan and associated goals and targets it did so under the auspices of the existing General Plan without any specific acknowledgement of peripheral growth and whether said growth would be expected to meet the same standard or different standards.

Letter 32

CITY OF DAVIS

PLANNING COMMISSION

PUBLIC HEARING

ITEM 6

COMMENTS ON THE MACE RANCH INNOVATION CENTER
DRAFT ENVIRONMENTAL IMPACT REPORT

OCTOBER 28, 2015

7:05 P.M.

DAVIS, CALIFORNIA

REPORTED BY:

ESTHER F. SCHWARTZ
CSR NO. 1564

CAPITOL REPORTERS (916) 923-5447

**Letter 32
Cont'd**

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ATTENDEES

PLANNING COMMISSION MEMBERS:

- ROB HOFMANN, CHAIR
- HERMAN BOSCHKEN
- CHERYL ESSEX
- GEORGE HAGUE
- CRISTINA RAMIREZ
- STEPHEN STREETER
- MARQ TRUCOTT

CITY STAFF:

- BOB WOLCOTT

TSCHUDIN CONSULTING GROUP:

- HEIDI TSCHUDIN

RANEY PLANNING & MANAGEMENT:

- NICK PAPPANI

PUBLIC PARTICIPATION:

- NONE

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**Letter 32
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DAVIS, CALIFORNIA

WEDNESDAY, OCTOBER 28, 2015

---oOo---

CHAIR HOEMANN: Moving on to Item Number 6.
Continue comments on the Mace Ranch Innovation
Center, Heidi Tschudin.

MS. TSCHUDIN: Good evening, I'm Heidi
Tschudin. I am the contract project manager for the
City.

This item was originally before you at your
September 9th meeting, and at that time we gave a
presentation. I think we answered a few questions,
entertained a little bit of dialogue with the
Commission. The Commission opened up the public
meeting for comments. There were no takers at the
time, and so we opted to or you opted to continue
the item to this date to allow people one more
opportunity to provide oral comments.

We have with us this evening the PowerPoint
that we used at the last meeting. I was only going
to use it if there was questions. We have no
further presentation, other than just that overview.
Happy to answer any questions.

What we recommend is that you, again, open it
up for an opportunity for public comment. Take

32-1

**Letter 32
Cont'd**

1 whatever comments there may be. Give us any
2 comments that you'd like to make, and that would be
3 everything that we need this evening.

4 CHAIR HOFMANN: Bob, do you have anything
5 further?

6 MR. WOLCOTT: No.

7 Heidi, am I right that the official end of the
8 comment period for written comments is November
9 12th?

10 MS. TSCHUDIN: Yes.

11 CHAIR HOFMANN: Just to clarify for the
12 audience at home. When on November 12th? Is that
13 in the City offices?

14 MS. TSCHUDIN: In the City's possession by
15 5:00.

16 CHAIR HOFMANN: 5:00, thank you.
17 Appreciate it.

18 Okay. I guess with that, then if there are no
19 preliminary questions, we are continuing the public
20 hearing that was opened on September 9th.

21 Anyone wishing to come forward and speak?

22 Not seeing anything, we'll go ahead and close
23 the public hearing and open it up to the Commission
24 for any additional questions, comments.

25 COMMISSIONER STREETER: I had a

**32-1
Cont'd**

**Letter 32
Cont'd**

**32-1
Cont'd**

1 clarification on Page 4 of the staff report. I
2 believe it's Page 4. It talks about the lead agency
3 approvals. And the last one on that page asks about
4 a City Council. I think it would be clearer,
5 instead of calls for an election, calls for a
6 Measure R vote. An election concerning Measure R
7 doesn't seem like the right term. Actually, in the
8 minutes for September 9th it mentions, I think on
9 Page 4 of 5, talks about a Measure R vote. So it
10 would just be consistent.

11 Does that make sense?

12 CHAIR HOFMANN: I think so. She's nodding
13 positively.

14 MS. TSCHUDIN: That's a great
15 clarification. Appreciate it.

16 CHAIR HOFMANN: Anyone else with questions?

17 COMMISSIONER STREETER: I just have one
18 more, while talking. There is a number of steps
19 including LAFCO and annexation. At some point I
20 noticed that the City has a pass-through agreement
21 with Yolo County. What would be the mechanism that
22 would happen, assuming things proceeded as they are?

23 CHAIR HOFMANN: I have a question. There
24 is an individual out there. If she was interested
25 in speaking, I don't want at this point to close too

**Letter 32
Cont'd**

**32-1
Cont'd**

1 fast. If she is interested in speaking, I would be
2 happy to reopen it.

3 COMMISSIONER STREETER: I think you
4 probably have some knowledge about that topic.

5 MS. TSCHUDIN: I do. What will happen,
6 because this involves an annexation, is there is
7 actually a requirement to negotiation a tax sharing
8 agreement between the county and the City. And at
9 the same time any modifications or additional
10 memorandums of understanding that need to accompany
11 the pass-through agreement would be addressed.

12 COMMISSIONER STREETER: I have been in town
13 about 13 years. I don't think there's been an
14 annexation for much longer than that.

15 Thank you.

16 CHAIR HOEMANN: I've had a question posed
17 to me several times and wasn't really in a position
18 to answer it.

32-2

19 At the last meeting, at least the questions
20 that I've been fielding have been primarily with the
21 mixed use alternative. I think there is a concern
22 that -- I don't want to mischaracterize. There is a
23 concern that at least a number of people have
24 addressed to me is that this is being viewed as
25 somewhat of a backdoor attempt to bring residential

**Letter 32
Cont'd**

1 in what would otherwise never make it to the light
2 of day.

3 When it was discussed last time there was -- I
4 guess both for our benefit and maybe those newer to
5 the Commission and that aren't aware of it, and
6 definitely people at home, could you go into a
7 little bit detail as to what workforce housing is
8 and explain the limitations that would exist as far
9 as if it's true workforce housing?

10 MS. TSCHUDIN: I can. Actually, if you're
11 willing, I would like to even go back further than
12 that and maybe explain why that alternative is in
13 the EIR.

14 CHAIR HOFMANN: Absolutely. Please.

15 MS. TSCHUDIN: Thank you.

16 CEQA is a state law that meshes with planning
17 and zoning laws. So it's meant to ride side by
18 side. That's why, for example, CEQA by itself has
19 no requirements for public hearings because it
20 relies on the public hearings that are on the
21 planning and zoning side.

22 And so as a way of ensuring that any given
23 project that has to go through the process has
24 enough disclosure of information for good decision
25 making, CEQA requires that you identify certain

**32-2
Cont'd**

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**Letter 32
Cont'd**

**32-2
Cont'd**

1 alternatives to the project that get analyzed in the
2 document. And they're required to be analyzed at a
3 comparative level, so in not as much detail as the
4 project, unless there is a reason to go into more
5 detail. And I will talk about that in a moment.

6 So these alternatives are usually identified
7 up front, and they're analyzed and compared.
8 They're compared to the impacts that would result
9 from the project. One of the requirements under
10 CEQA is that the alternatives be developed to test,
11 if you will, areas where adverse environmental
12 impacts are expected to occur from the project.

13 So they're not really planning alternatives.
14 They're environmental alternatives that are prepared
15 specifically for CEQA.

16 And so, in this case, one of the impact areas
17 that we expected or several impact areas we expected
18 when we were scoping the EIR was in the area of
19 greenhouse gases, probably trips, impacts related to
20 traffic and circulation, et cetera.

21 And there is quite a body of research that
22 speaks to when you have housing in proximity to
23 jobs, that sometimes those impacts can be lessened
24 or minimized. So as a matter of compliance with the
25 requirement under CEQA to create a reasonable range

**Letter 32
Cont'd**

**32-2
Cont'd**

1 of alternatives that would, among other things,
2 minimize impacts expected from the project, we
3 identified that it would be appropriate to analyze a
4 project that involved housing.

5 And so that alternative was flushed out for
6 the purposes of the CEQA analysis. And because of
7 interest in how that alternative would compare to
8 the project across the board, we actually opted to
9 do an equal weight analysis as opposed to just a
10 comparative analyst, which is why you see it in a
11 separate chapter in the EIR, because it was analyzed
12 at the same level of detail as the project, to
13 really give a lot of information for decision makers
14 to contemplate how that compared.

15 And so in terms of a backdoor, I don't really
16 have a response to that because I respect people's
17 opinions about that. But it was our belief that
18 without an alternative like that the EIR would not
19 have been adequate, would not have satisfied the
20 requirements under state law for a reasonable range
21 of alternatives that would minimize the impacts of
22 the project.

32-3

23 CHAIR HOFMANN: Which again, this is
24 actually my question: The 850 units, where is that
25 assumption coming from?

**Letter 32
Cont'd**

1 MS. TSCHUDIN: The 850 units was backed
2 into based on the original research that was done
3 for the urban decay and the transportation and
4 circulation analysis. We hired Bay Area Economics
5 out of Davis to analyze for us where employees were
6 likely to live and what housing would likely be used
7 by those employees and in what direction, because we
8 have to be able to distribute the trips for the
9 modeling.

10 And as a part of that analysis we used
11 information that was in the housing element that
12 described the likely future residential units
13 projected to occur in the City; and we looked at
14 what demand for residential units would occur beyond
15 those units. And that's where the 850 number came
16 from.

17 It was actually a lot more complicated than
18 that. I'm trying to make it understandable.

19 As far as what is workforce housing as it was
20 described, I don't have the exact words in front of
21 me, but the idea behind it, as described in the
22 alternative, was a very high density housing. And
23 in the alternative, by the way, we did assume that
24 every unit had at least one employee from the
25 project living in the unit.

**32-3
Cont'd**

**Letter 32
Cont'd**

**32-3
Cont'd**

1 Because, as I explained, the point of the
2 alternative was to test what the maximum effect
3 would be if you had that on the site. And there's
4 been some questions that we've been asked.

5 For example: How can you assume that? Well,
6 we assumed it as a matter of analysis. But to the
7 substance of the question, there are ways to ensure
8 link between housing and jobs. And in this case the
9 number of housing units, 850, is significantly
10 smaller than the number of projected jobs, about
11 5,800.

12 Given the demand in the City, we did not feel
13 it was unreasonable to expect that you could
14 populate all the units with employees. And where
15 there's a willingness to do so, you can, depending
16 on the type of housing that's developed, require a
17 relationship between jobs and employees. An example
18 is the Aggie Village units at the university.

19 So for the purposes of the analysis we assumed
20 that relationship. If there was an interest in
21 moving forward and somebody wanted to pursue that
22 further, the proper avenue to do that would be
23 through the development agreement.

24 COMMISSIONER BOSCHKEN: I would like to
25 pick up on that a little bit. The rub, as I heard

**Letter 32
Cont'd**

1 it among folks in Davis, is that, as I think
2 Commissioner Hofmann said a moment ago, could be
3 perceived as a backdoor method for getting more
4 housing in Davis. And the scenario that I've heard
5 goes like this:

6 If the commercial development, the actual
7 startup structures or company structures, I should
8 say, don't materialize and the developers are
9 probably not going to be building until they have
10 signed agreements and sales in hand. Which suggests
11 that if the principal purpose of the development
12 doesn't -- isn't realized, that it could be modified
13 such that it becomes a new housing development much
14 greater than the one that you've got outlined in the
15 EIR.

16 So I guess the concern is: Are there any
17 methods built into the EIR that would either account
18 for, I'll be blunt, the failure of the Innovation
19 Park as a commercial corporate center or any sorts
20 of restrictions with regard to converting that land
21 to housing from its current designation or so forth?
22 There's that issue that I heard that's out there.

23 The other issue that I've heard, and it's
24 really not an issue, you're sort of the victims of
25 the issue, if you will, is that, when the Cannery

**32-3
Cont'd**

**Letter 32
Cont'd**

1 came before us, they sold it strictly on housing for
2 localites. We weren't going to be importing a huge
3 number of folks from outside, especially the Bay
4 Area.

5 Yet what happened or what is in the process of
6 happening is that the Cannery folks appear to be
7 selling their property, I'll use the word,
8 principally to outsiders. They have taken full page
9 ads out in the San Francisco Chronicle on the
10 Cannery and it's availability. And they've done a
11 number of other things to suggest that maybe all
12 along they didn't have in mind local folks, meaning
13 Yolo County folks, moving into the Cannery, but
14 importing large numbers of individuals here,
15 probably as a bedroom community, because they're not
16 interested, per se, in Innovation Park to begin
17 with.

18 So we have those kinds of things rattling
19 around in our community here with regard to - they
20 call it - an honesty issue. I'll just call it an
21 issue dealing with change and plans not being
22 realized. Where these particular developments
23 ultimately skirt the intent of the community of
24 Davis by calling it an apple when they get approved
25 and then creating a pear when they go to develop.

**32-3
Cont'd**

**Letter 32
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**32-3
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1 So I'm wondering in the EIR, 'cause I don't
2 see that particularly addressed as a problem, an
3 issue or something that needs to be dealt with, if
4 for no other way as an alternative, could this
5 Innovation Park be built out essentially as a new
6 residential area, maybe with or without retail or
7 commercial or corporate startup sites?

8 MS. TSCHUDIN: There is a number of
9 questions and comments in there. I'll do my best.

10 The EIR for any project, not just this
11 project, analyzes what's proposed. And then for the
12 alternatives it analyzes what the alternatives are,
13 based on how they're described. And when a project
14 moves forward, whether it moves forward as the
15 project as proposed or whether a particular
16 community embraces an alternative, which CEQA
17 certainly allows, that's why the analysis is in
18 there. The piece that you're asking about, I think,
19 is really more about how the project is approved and
20 conditioned than about how it's analyzed.

21 Once a project moves forward, let's assume for
22 sake of discussion, that it's approved, and in this
23 case let's assume it's approved in this environment,
24 there is at least four layers of things, five maybe,
25 that you can do to ensure that you get the project

**Letter 32
Cont'd**

1 as it's described.

2 One is in the description of the approval
3 itself. Only the project that is described is
4 approved, not something different. So to change it
5 later an amendment to the project would be required.
6 For Davis, like in this situation, you would have
7 layers like this. You would have the conditions of
8 approval. You would have whatever phasing may be
9 identified, and there may be relationships required
10 in that phasing. So much park with so much square
11 footage. So much, if there is housing, so much
12 housing with so much square footage.

13 So the phasing plan would be relevant. You
14 would have the development agreement, which is a
15 separate contractual agreement between the applicant
16 and the City, fully enforceable under the law. You
17 would have in this case your Measure R, which
18 requires, I think it's called, baseline features.

19 Is that the right word?

20 CHAIR HOFMANN: Yes.

21 MS. TSCHUDIN: And baseline features are
22 required to be described. And any variance from the
23 baseline features has to go back through a vote.
24 I'm probably -- and then you would also have your
25 zoning and general plan designations that would be

15

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**32-3
Cont'd**

**Letter 32
Cont'd**

**32-3
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1 assigned.

2 And in this case the zoning is in the form of
3 a planned development, preliminary and then final
4 plan development, which is like a mini zoning code
5 that governs what happens at the site and sets the
6 parameters. So it is a regulatory code.

7 All those things are in place to ensure that a
8 project not only develops the way it's been
9 described, but is implemented over time. Like this
10 one has a long build-out. So that it develops over
11 time as described. If changes are requested of
12 that, then there is a number of processes for that.

13 That's pretty much aside from the EIR
14 analysis. Because that gets at things that would
15 happen in the course of approving. Or if you deny
16 it, then none of those things happen. But, of
17 course, in approving it that's when all that gets
18 attached.

32-4

19 COMMISSIONER BOSCHKEN: I'm fairly aware of
20 the process that you're talking about. But for an
21 EIR I'm wondering why you wouldn't spell out an
22 alternative that included principally housing to
23 give a, I would call it, proper perspective as to
24 the impact of residential versus commercial on the
25 area.

16

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**Letter 32
Cont'd**

**32-4
Cont'd**

1 Just take the example of automobile traffic
2 alone. And it not being a spelled-out alternative
3 means that you didn't do that analysis of what if
4 it's a residential development ultimately and the
5 impact of automobiles and things like that.

6 MS. TSCHUDIN: The reason is because that
7 alternative would have more impacts. And the CEQA
8 alternative requirements is to identify alternatives
9 that would have less impacts. So it wouldn't
10 necessarily be a CEQA alternative.

11 I totally get it, that it's a project
12 alternative. That's one of the difficulties with
13 using CEQA to do planning. So CEQA isn't a planning
14 tool. It just looks at the environmental
15 assessment. And you're all nodding, and I know you
16 get it as a Planning Commission because it's
17 something that sometimes people struggle with.

18 It's not an alternative because it wasn't
19 proposed by the applicant. It's not an alternative
20 in the EIR because we didn't believe that it would
21 satisfy the test of minimizing environmental impacts
22 so we didn't study it. You're correct.

32-5

23 COMMISSIONER HAGUE: Just to clarify. It's
24 my understanding -- and you may have just answered
25 this question, but I'm going to ask it again.

**Letter 32
Cont'd**

1 MS. TSCHUDIN: Sure.

2 COMMISSIONER HAGUE: It's my understanding
3 that the build-out of the Mace Ranch Innovation
4 Center is anticipated over about a ten-year period.

5 MS. TSCHUDIN: I think it's a probably
6 closer to 20.

7 COMMISSIONER HAGUE: It's also my
8 understanding that this workforce housing is going
9 to be phased in over that build-out period,
10 basically as justified by the project's development.
11 In other words, if there's no Innovation Park built
12 as currently envisioned, there is no 850 housing
13 units because they're unnecessary, if it's workforce
14 housing.

15 That is my take away from that. Correct me if
16 I am wrong.

17 MS. TSCHUDIN: I think that's a fair
18 statement. For the alternative we did assume some
19 phasing. And Nick is looking it up for me.

20 It is presented in Figure 6-8, which is in
21 Chapter 8, the mixed use alternative. It shows the
22 housing coming forward as part of Phase II and Phase
23 III and IV. It is not in Phase I.

24 CHAIR HOFMANN: Correct. Spelled out on --

25 COMMISSIONER HAGUE: If you built Phase I

18

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**32-5
Cont'd**

**Letter 32
Cont'd**

1 and the project stalled, the larger project stalls,
2 the other phases wouldn't be developed.

3 MS. TSCHUDIN: That's correct.

4 COMMISSIONER HAGUE: So the fear that this
5 is going to turn into a housing program is really
6 just that, a fear; it's not based on current
7 thinking at all.

8 MS. TSCHUDIN: It is not what is analyzed
9 as the alternative. And so if it were to move
10 forward, we would have to explore something
11 different than what is described in here.

12 COMMISSIONER HAGUE: That would have to
13 come back to us?

14 MS. TSCHUDIN: Absolutely. Yes.

15 CHAIR HOFMANN: To say the fear is not
16 there I'm not sure is accurate because you would
17 have this rezoning. You would have this annex
18 rezoned, and then you would have all this inertia
19 moving forward. If it stalls, then you will have
20 people coming back saying, "What do we do now?" So
21 --

22 COMMISSIONER HAGUE: That is another
23 discussion.

24 CHAIR HOFMANN: Absolutely. It would
25 without a doubt absolutely come through us. Come

**32-5
Cont'd**

**Letter 32
Cont'd**

1 through here.

2 MS. TSCHUDIN: Maybe a different way to say
3 it is: Because the alternative is analyzed in here
4 with 850 units, it is true that the City Council, if
5 it chose to and your Commission if it chose to make
6 a recommendation, could move in that direction. But
7 it could not move in the direction of a different
8 project with a different number of units unless we
9 could reach the conclusion that this EIR adequately
10 analyzed it. If we couldn't reach that conclusion
11 and a different alternative was identified and was
12 moving forward, we'd have to do subsequent
13 environmental analysis.

14 CHAIR HOFMANN: Other questions?

15 COMMISSIONER STREETER: I think the
16 strongest argument I've heard is: We need the
17 research development innovation stage, why would we
18 take away from it for housing? Housing could go
19 somewhere else. Other than the transient housing in
20 the form of the hotel, or as we did with the
21 Trahansky [phonetic] last Planning Commission, maybe
22 there is one unit per business for security, a
23 caretaker or security person, something like that.
24 But we're looking for acreage to use for alternative
25 purposes that isn't on the inventory right now.

**32-5
Cont'd**

**Letter 32
Cont'd**

**32-5
Cont'd**

1 That doesn't make sense. I don't see the City
2 Council going in that direction.

3 CHAIR HOFMANN: Any other questions?
4 If I could back to workforce housing
5 definition then. As it's being used in here, then
6 it's not -- is it the legal definition? Because
7 there is, if you go to ACD, housing community
8 development, they have a defined workforce housing
9 definition. And off the top of my head it's like 60
10 percent of -- maybe vaguely referenced in there, but
11 that -- when the analysis was done here, was it
12 using that definition with caps?

32-6

13 MS. TSCHUDIN: It was not. It was not. It
14 was lower case "w", lower case "f." It's described
15 as, and I'm on Page 8-5, at the top of the page, sub
16 item (e), residential. And then it says:

17 Workforce housing with an average
18 density at or above 30 dwelling units
19 per acre. The anticipated density
20 range is between 20 and 50 dwelling
21 units per acre or higher, depending on
22 product type. (Reading)

23 It's really focusing for the purposes of
24 analysis on the density.

25 CHAIR HOFMANN: On density. And in terms

**Letter 32
Cont'd**

**32-6
Cont'd**

1 of -- so there's no expectation in terms of caps in
2 terms of cost, of ultimate cost, which is what the
3 ACD statutory California definition is?

4 MS. TSCHUDIN: Oh, I see what you're
5 getting at.

6 CHAIR HOFMANN: It places a cap.

7 MS. TSCHUDIN: You're talking about
8 affordable housing?

9 CHAIR HOFMANN: Affordable housing,
10 absolutely.

11 MS. TSCHUDIN: Gotcha.

12 CHAIR HOFMANN: So my concern is if we're
13 mixing the term --

14 MS. TSCHUDIN: I think you're mixing the
15 term, yes.

16 CHAIR HOFMANN: Okay. I want to make sure
17 that we're not here. If people are looking at this,
18 seeing workforce housing and making an assumption
19 that this is going to be capped, affordable housing,
20 that this project would be doing --

21 MS. TSCHUDIN: No. I thank you for the
22 clarification so that I can respond. There are no
23 assumptions in here about affordability of the
24 families or individuals that would occupy these
25 units if this alternative was chosen.

22

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**Letter 32
Cont'd**

**32-6
Cont'd**



1 However, it is assumed that every one of the
2 units would have at least one resident that is also
3 an employee at the Invocation Center. So there
4 would be a relationship between the wages paid at
5 the Innovation Center and the people living in these
6 units by virtue of the definition of who would
7 reside in them.

8 CHAIR HOFMANN: Or lack thereof. I think
9 that's where the concern is. Because if there is
10 not an affordability component to this, I have no
11 idea what people would be getting paid out there.

12 We had the example. We have units on B Street
13 that were priced at -- I think probably in six to
14 eight units, originally priced at 750,000.
15 Everybody thought that no way in the world. Within
16 the first -- at the least, three if not four of
17 those units the buyers were students, parents of
18 students. Snapped them right up.

19 So the concern here is if -- I appreciate the
20 example you're giving about Aggie Village. The
21 university owns the land. And so I think we're
22 talking about structure here. We're planning. We
23 have to look at it from a planning perspective.

24 If our recommendation, we are looking at this
25 and evaluating and saying, "Okay. The developer or

**Letter 32
Cont'd**

**32-6
Cont'd**

1 whomever ultimately is going to own" -- if there's
2 going to be one entity that owns the entirety of
3 this development, and they have the ability to then
4 dictate, as in the case of Aggie Village, because
5 they actually -- the university owns the land, and
6 they can control who's there specifically because
7 they own the land.

8 Absent that, I know of no other ability in the
9 State of California to limit this. There -- the
10 example in Colorado, et cetera, where you have a
11 place that's out in the middle of nowhere, which is
12 just because of the function of the ski resort or
13 whatever it may be, everybody living there by
14 default. It works out. So you can get all the
15 employees there. And it pretty much works out as
16 employee housing because of its location.

17 To say here between our major metropolitan
18 areas and to say that we have -- other than somebody
19 in some form ultimately owning the land underneath
20 the housing, we have no ability to control that
21 whatsoever. We have -- this is a very attractive
22 community to people that have money. And we've had
23 example after example, as you referenced with the
24 Cannery, people locally are priced out.

25 And we've had applicant after applicant with

**Letter 32
Cont'd**

**32-6
Cont'd**

1 project after project coming here and tell us, "Oh,
2 we're --" because they can say whatever they want to
3 say. They will come before us and say, "Yeah, we're
4 shooting for the 550-, 600- range." And then the
5 project comes forward and suddenly they're at 850-
6 to a million. And we have to take as gospel what
7 they tell us.

8 So the concern is there. Again, especially,
9 if it's just an example like Aggie Village. It's
10 apples and oranges.

11 MS. TSCHUDIN: I'm not sure that it is. So
12 backing up again to the purpose of the alternative.
13 It was here for a particular purpose. To test
14 whether or not it would have a minimizing effect on
15 certain adverse environmental impacts.

16 CHAIR HOFMANN: It's a huge assumption that
17 they then --

18 MS. TSCHUDIN: There are absolutely --

19 CHAIR HOFMANN: That's a huge assumption,
20 that you're going to have one employee per unit.
21 And the problem is that we have a very unique
22 community. It doesn't -- and your comparables to
23 other communities don't necessarily apply.

24 MS. TSCHUDIN: The point that I was going
25 to make is that there is a mechanism to ensure that

**Letter 32
Cont'd**

**32-6
Cont'd**

1 that takes place. I can't speak to whether the City
2 will choose to use it. But in response to your
3 question, there are ways to ensure that ever single
4 unit is occupied by an employee.

5 And so to the extent that that assumption was
6 made, that could be the outcome. Whether it is the
7 outcome and the makeup of the housing, because it's
8 not -- we have an application for a different
9 project. And so I don't have an applicant's
10 submittal for housing in the alternative. It was
11 something that we developed for the purposes of the
12 analysis.

13 I completely understand your point. And to
14 that end, if we go down a different direction, we
15 will have to flush out conditions of approval,
16 development agreement, regulations, et cetera, for a
17 project that includes housing. But for right now we
18 would be doing that presumably for the project
19 that's been proposed, if it's approved.

20 So I think all your questions are very fair.
21 To the one: Can we ensure that relationship? Yes,
22 in my opinion, you can. Whether we chose not to or
23 whether we choose to or not, it's completely
24 speculative for me to guess at this point.

25 But to the extent that we make different

**Letter 32
Cont'd**

**32-6
Cont'd**

1 assumptions from what we relied on in the EIR, we
2 will have to make sure that we then test those
3 different assumptions, if we believe that they would
4 result in environmental impact. So we would still
5 do that check and circling around of whether or not
6 we feel the EIR adequately covers any decision that
7 would possibly be made on the project.

8 That's true with any project. So it's a step
9 that we'll have to take as we move forward, and if
10 we need to stop and do more environmental analysis,
11 we will. If we conclude that we don't and the
12 Council is able to make a decision and they go in
13 one direction or another, we'll have to have an
14 appropriate entitlement package for that decision.

15 CHAIR HOFMANN: Appreciate that. That's
16 the questions I'm getting.

17 MS. TSCHUDIN: They're great questions, and
18 I completely understand where you're coming from.

19 CHAIR HOFMANN: Any other questions?
20 Comments?

21 Okay. Not seeing any then, I guess with that,
22 we will go ahead. And anything further? Just as an
23 important reminder, November 12th.

24 Is that correct?

25 MS. TSCHUDIN: Yes.

27

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32-7

**Letter 32
Cont'd**

1 CHAIR HOFMANN: At 5:00 p.m. in the City,
2 any comments by 5:00 p.m.

3 MS. TSCHUDIN: Yes. Thank you very much.

4 CHAIR HOFMANN: Appreciate it. Thank you.

5 (Item 6 concluded at 7:35 p.m.)

6 ---oOo---

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**32-7
Cont'd**

**Letter 32
Cont'd**

**32-7
Cont'd**

1	REPORTER'S CERTIFICATE		
2			
3			
4	STATE OF CALIFORNIA)	
5	COUNTY OF SACRAMENTO)	ss.
6			
7			
8	I, ESTHER F. SCHWARTZ,	certify that I was the	
9	official Court Reporter for the proceedings named		
10	herein, and that as such reporter, I reported in		
11	verbatim shorthand writing those proceedings;		
12	That I thereafter caused my shorthand writing		
13	to be reduced to printed format, and the pages		
14	numbered 3 through 28 herein constitute a complete,		
15	true and correct record of the proceedings.		
16			
17	IN WITNESS WHEREOF, I have subscribed this		
18	certificate at Sacramento, California, on this 3rd		
19	day of November 2015.		
20			
21			
22			
23			
24		<u>ESTHER F. SCHWARTZ</u>	
25		CSR NO. 1564	

LETTER 32: PLANNING COMMISSION, CITY OF DAVIS

Response to Comment 32-1

The comment reflected a dialog between commissioners and staff regarding annexation and tax sharing. No further response is needed.

Response to Comment 32-2

Please see Master Response #3, Mixed-Use Alternative.

Response to Comment 32-3

The comment reflects questions asked and staff responses given at the public hearing regarding the Mixed-Use Alternative and guarantees of developer performance. Please see Master Response #3, Mixed-Use Alternative, and Master Response #4, Guarantees of Developer Performance.

Response to Comment 32-4

The comment reflects questions asked and staff responses given at the public hearing regarding development of CEQA project alternatives. Section 15126.6 of the CEQA Guidelines requires an EIR to describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives.

Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment, the discussion of alternatives is required to focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

A residential-only alternative was not considered because it would not reduce the impacts of the proposed project, which is one of the requirements for an alternative under CEQA Guidelines Section 15126.6(b), nor would it meet the project objectives of creating an innovation center.

Response to Comment 32-5

The comment reflects questions asked and staff responses given at the public hearing regarding the type of housing assumed in the Mixed-Use Alternative, phasing of housing under that

alternative, and questions about the possibility of a future change in the project to allow more housing. As noted on page 4.10-29 of Section 4.10, Land Use and Urban Decay, of the Draft EIR, the economic analysis completed by BAE Urban Economics generally assumes 2035 as the buildout year for the office and industrial land uses, which reflects a 17-year absorption period. Please see Figure 8-10 on page 8-25 of Chapter 8, Mixed-Use Alternative Analysis. As shown in the figure, housing under the Mixed-Use Alternative would occur in Phases 2 (300 units), 3 (300 units), and 4 (250 units).

A request in the future to substantially modify the project, such as a change in total square footage or to change from innovation center uses to residential uses would require a City application, environmental review, and changes in project approvals such as the development agreement. Depending on how the project baseline features are ultimately defined, such a modification might also trigger a subsequent Measure R vote.

Response to Comment 32-6

The comment reflects questions asked and staff responses given answered at the public hearing regarding the type of proposed housing in the Mixed-Use Alternative and housing affordability. Please see Master Response #3, Mixed-Use Alternative.

Regarding affordable housing, if the Mixed-Use Alternative is chosen, the project would be subject to the City's affordable housing requirements which are found in Chapter 18, Housing, of the City Municipal Code. Section 18.05.010 indicates, in part:

- (f) General plan implementing policies require that, to the extent feasible, for sale residential developments should provide for housing units that are affordable to very low income households, low income households and moderate income households as part of the development, with tiered requirements that are reduced or eliminated for housing products that are more affordable by design. General plan policies also require that affordable ownership units include a means for sustained affordability, maintaining them as affordable units into the unforeseeable future.
- (g) General plan implementing policies also require that, to the extent feasible and subject to existing law, rental housing developments with five to nineteen units shall provide fifteen percent of the units to low income households and ten percent to very low income households; and in rental housing developments with twenty or more units that twenty-five percent of the units be affordable to low income households and ten percent of the units be affordable to very low income households. General plan policies also require that affordable rental units remain affordable in perpetuity. (Ord. 2418 § 1, 2013)

If the City requires occupancy of the units by MRIC employees and if the developer demonstrates that the housing would be made available to a representative cross-section of employees covering a range of wages, the housing component of the project may qualify for exemption from the affordable housing requirements under Section 18.05.080:

- (d) The requirements of this article may be adjusted or waived if the developer demonstrates to the satisfaction of the city council that there is not a reasonable relationship between the impact of a proposed residential project and the requirements of this article ...

Response to Comment 32-7

The comment describes the adjournment of the meeting and the certification of the court reporter. No response is necessary.

Letter 33

Open Space and Habitat Commission
Final Consolidated Comments on DEIR
Mace Ranch Innovation Center Project
Approved Nov. 2, 2015

GENERAL COMMENTS

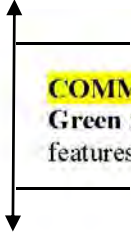
General Comments

- 33-1 **COMMENT 1:**
Confused use of the term “open-space”. The project confuses open-space (as described in 2002 AMP) with landscaped lawns. Use City’s classification of green-space and make this distinction in calculating acreages. Beyond the ag-buffer, the open-space described is just manicured lawns, and provides little of value to OSIC interests. (See pages 2-6, 3-29, 4.10-14, 4.13-22, 4.13-17 and Table 3-3)
- 33-2 **COMMENT 2:**
City Open space guidelines. Include the full set of City-approved open-space guidelines as part of the project description and elsewhere in the EIR as relevant.

Page 3-9 – Describes some of the guidelines (Integrate open space and habitat opportunities. Maximize the use of trees and native landscaping.), but misses the following elements from the City’s guidelines – include them:
- i. Storm water treatment and flow control through bio swales.
 - ii. Use of parking and rooftops for energy generation (and possible green roofs).
 - iii. Usable Open Space/Habitat opportunities overlapping with the drainage systems, including pathways systems throughout with interpretive exhibits.
 - iv. Greenbelt spine(s) to interconnect the nearby neighborhoods.
- 33-3 **COMMENT 3:**
Habitat use of site. The EIR should be clear that the only habitat provided by the project is similar to any other industrial or residential land use. Mostly for common species.
- 33-4 **COMMENT 4:**
Minimal value of Greenbelts as “open-space”. The EIR should accurately describe the minimal value of the 22.88 acres of Perimeter/Greenbelts on the south and west side of the property. They are narrow strips of lawn between major roadways and buildings or parking lots, and do not qualify as “open space.” They don’t link with other offsite open space (one of the City’s guidelines).
- 33-5 **COMMENT 5:**
Use of drought tolerant plants, Native landscaping. This is included and described on pages 3-48, 4.1-24 and 4.1-24. This is good to see included.

**Letter 33
Cont'd**

33-6



COMMENT 6:

Green roofs. OSHC had suggested using green roofs as a way to provide additional habitat features. Explain why this was not included.

**Letter 33
Cont'd**

CHAPTER 2.0: EXECUTIVE SUMMARY

General Comments

33-7

COMMENT 7:

The Executive Summary (Chapter 2) appears to employ circular reasoning in evaluating the no build, reduced site, and reduced project alternatives. Whether we should be building what has been proposed is the question that the EIR is supposed to answer; the answer should not be presupposed. But the alternatives, even though they are admitted to have fewer negative environmental impacts, are rejected simply because they aren't what were in the original proposal. Instead, the reduction of negative environmental impacts should be weighed against the loss of parts or all of the project.

33-8

COMMENT 8:

Citizens have been told that the main objective behind building an "innovation park" is to help the city's finances while avoiding sales or parcel tax increases. The report doesn't say whether it is possible to meet this primary objective with a smaller project. It just assumes that a larger project is necessary. The DEIR should discuss whether a smaller project would work.

Page 4

Table 2.1 -- Comparison of Alternatives Features

33-9

COMMENT 9:

The DEIR asserts, but does not identify or explain the demand for a business park or housing on this site. The DEIR states on page 2-7:

"[Reduced Size Alternative]... fails to achieve the fundamental objectives of the City or the applicant to develop an integrated innovation center campus of approximately 200 acres in size, with sufficient land to meet demand over a 20 to 25 year period. As a result, this alternative would not result in a critical mass of users of various sizes sufficient to allow for a full range of research and market uses."

There have been many acreage figures suggested over the past several years regarding demand; at one city council meeting in 2013 the council heard testimony that 400+ acres were needed at the Mace site, but this project's Mixed Use Alternative, provides only 61 acres (2,654,000 square feet) for business development.

The DEIR should provide reasoning for rejecting The Reduced Size and No Build Alternatives based on a demand study of business park needs in Davis over the next 20 years.

**Letter 33
Cont'd**

Page 6
Summary of Reduced Project Alternative

33-10

COMMENT 10:

There is a contradiction between the Executive Summary of the reduced site alternative and the discussion in Chapter 7. Chapter 7 correctly notes that a smaller footprint is less of a negative aesthetic impact. The executive summary leaves this out and makes it seem as though the reduced site option would have a *greater* negative aesthetic impact than the proposed project, which is false. The executive summary should be corrected.

Page 13
Areas of Controversy and Issues to be Resolved

33-11

COMMENT 11:

The city-owned twenty-five acres isn't only of interest for a community farm. It is also an area for viewsheds to the east (views that are visible only if those 25 acres are not developed, since they are adjacent to Mace Curve). This loss of viewsheds that will result if the city-owned twenty-five acres were to be built on should be mentioned in the DEIR.

33-12

COMMENT 12:

The city-owned twenty-five acres is land that was left out of the Leland Ranch easement as a result of the *proposal from the OS&H Commission to build a community farm on it*. Building on these twenty-five acres would be a bait and switch; the OSHC only recommended keeping the twenty-five acres out of the easement in order to build a community farm, not to build an innovation park on it. This history is missing from the DEIR but it should be included.

Page 14
Table 2.3 -- Summary of Impacts and Mitigation Measures
Subject 4.1 -- Aesthetics and Visual Resources
4.1-4 Conflict, or create inconsistency, with any applicable plan, policy, or regulation adopted for the purpose of avoiding or mitigating environmental effects related to aesthetics and visual resources

33-13

COMMENT 13:

Landscaping trees should be locally native species to fit in with both Davis and the surrounding landscape.

Page 17
Table 2.3 -- Summary of Impacts and Mitigation Measures
Subject 4.2 -- Agriculture and Forest Resources

33-14

COMMENT 14:

Context: The proposed project's mitigation calls for 2:1 conserved agricultural acres, using the

**Letter 33
Cont'd**

LESA model with a LESA score no more than 10 percent below that of the project site.

- a) The DEIR should compare the criteria and scoring procedure of the California Department of Conservation/Yolo County LESA model to ascertain whether this model meets the goals and requirements of the City's Open Space policies, and those of Yolo County.
- b) In no case should any LESA score for a mitigation property be less than the MRIC land being mitigated.
- c) The DEIR states that the mitigating land must have adequate water. The DEIR should define and quantify "adequate water." State crops, and previous water usage on a per acre basis. The amount of water available for agriculture on the mitigation land should be no less than the amount per acre available to the project land being mitigated.

33-14
Cont'd

Pages 22-23
Table 2.3 -- Summary of Impacts and Mitigation Measures
Subject 4.4 -- Biological Resources
4.4-2 Impacts to Valley elderberry longhorn beetle (VELB)

33-15

COMMENT 15:

The elderberry should be transplanted to a location within the City of Davis open space network that is more likely to support VELB. Additional elderberries should also be planted in this location. Alternatively, a suitable habitat for elderberry could be created as part of on-site open space elements in the project footprint.

Pages 25
Table 2.3 -- Summary of Impacts and Mitigation Measures
Subject 4.4 -- Biological Resources
4.4-3 Impacts to Giant garter snake (GGS)

33-16

COMMENT 16:

Construction may negatively impact the closely adjacent GGS habitat (i.e. indirect impacts, either temporary or permanent). These could include run-off from the construction site, noise and light disruption, or loss of prey. These impacts should be considered for mitigation.

Pages 30
Table 2.3 -- Summary of Impacts and Mitigation Measures
Subject 4.4 -- Biological Resources
4.4-4 Impacts to Burrowing owl

33-17

COMMENT 17:

CNDDDB records show that there have been six documented occurrence sites within 1.0 mile of

**Letter 33
Cont'd**

**33-17
Cont'd**

the project site over the past 11 years. This indicates that there still exists potential (although possibly unoccupied) burrowing owl habitat at the site. The DEIR under-represents the impacts to potential habitat. Mitigation requirements should take into consideration that the project site is potential habitat whether or not there are currently owls present.

Pages 41

Table 2.3 -- Summary of Impacts and Mitigation Measures

Subject 4.4 -- Biological Resources

4.4-6 Impacts to raptors, nesting birds, or other birds protected under the MBTA

COMMENT 18:

33-18

White tailed kite was one of the raptor species found at the project site. The site currently potentially provides foraging habitat for the kite. The proposed development could negatively impact the kite. Impacts to the kite were missing from the DEIR and should be described.

Pages 44

Table 2.3 -- Summary of Impacts and Mitigation Measures

Subject 4.4 -- Biological Resources

4.4-9 Interfere substantially with the movement of native, resident, or migratory fish or wildlife species or established native resident or migratory wildlife corridors

COMMENT 19:

33-19

The Mace Drainage Channel provides one of the few potential linkages providing for the movement of wildlife between Yolo Bypass and greenbelt corridors and open space features within the City of Davis. The semi-aquatic connectivity should either be maintained/enhanced by any option selected or other potential connectivity should be enhanced. These impacts were not mentioned in the DEIR and they should be mentioned in the DEIR.

COMMENT 20:

33-20

While ruderal vegetation at the site is largely comprised of exotic species, these still provide host and feeding resources for native pollinators. Any negative impacts to ruderal vegetation should be offset by enhancement of plant resources for native pollinator species either on the site or in nearby locations. No pollinator impacts were mentioned in the DEIR and they should be mentioned in the DEIR.

**Letter 33
Cont'd**

CHAPTER 3.0: PROJECT DESCRIPTION

General Comments

33-21

COMMENT 21:

The objectives are excessively specific (e.g., proximity to I-80, to mention just one example) permitting the DEIR to reject alternatives in Chapter 7 simply because they are not what has been proposed. Objectives should be more general so that alternatives can receive genuine consideration.

33-22

COMMENT 22:

City-owned 25-acres. The 25 acres of city property needs to be acknowledged in the Project Description section. It is a major point of controversy and the EIR should be up front about it. Show it on maps and describe it. There is no mention in the Project Description of this land.

Page 4

Surrounding Land Uses

Figure 3.2 – Project Vicinity Map

33-23

COMMENT 23:

Figure 3.2 has its facts wrong. It specifies that the “Mace 390” lies east of the project, and is protected by an agricultural conservation easement. The “Mace 390”, also known as the “Leland Ranch,” no longer exists. It was subdivided into a 360-acre parcel and a 25-acre parcel. The 360 acres were sold by the City of Davis in 2013 to a private party; these 360 acres were sold encumbered by an agricultural conservation easement. The 25 acres were retained by the City AND IS PART OF THE PROPOSED PROJECT; it is not yet conserved or protected. This same error repeats in other sections of the DEIR. This error should be corrected.

Page 7

MRIC Applicant Objectives

33-24

COMMENT 24:

One of the MRIC’s stated objectives is to “Preserve and protect agriculture through the planning and development of property which will result in a distinct permanent urban edge.” (p. 3-7). This objective would be better achieved by not building on the property at all or by building a smaller project; this should be recognized in the alternative scenarios section of the DEIR (Chapter 7), which downplay the question of whether alternatives meet objectives at all. The MRIC can’t have it both ways; they can’t pretend to be preserving agriculture while destroying more than 200 acres of it.

**Letter 33
Cont'd**

Page 8
City Objectives for Innovation Centers

33-25

COMMENT 25:

One of the City's stated objectives is to maximize density (p. 3-8), but then it is pooh-poohed as being desirable on p. 7-60, with respect to the Reduced Site Alternative. This makes the DEIR seem like it is advocating for a pre-determined outcome and expressing an opinion rather than evaluating in accordance with the stated objectives. If the alternative considered really is too dense, the DEIR might have considered a less dense, yet still smaller project than the MRIC proposal. That it does not makes it seem as though the alternatives are "straw proposals," set up to be knocked down. Either they should be considering a less dense project or recognizing the significance of the fact that the reduced site alternative aligns with one of the City's stated objectives to maximize density.

Page 21
Permitted and Conditional Uses

33-26

COMMENT 26:

The DEIR proposes permitted agricultural uses for land that will remain in agriculture (for up to 20 years). The DEIR states:

"Agriculture, except fowls or animals for commercial purposes, or the sale of any products or retail on the premises."

The DEIR should state its justification for these limitations or not make requirements that are inconsistent with City of Davis zoning regulations for Agriculture, but instead should conform to the City code for agricultural zoning for land at the project site that will not be converted for many years.

- a) The City of Davis Zoning Ordinance, Section 40.02.020 Agricultural District (A) permitted uses states:

"a) Agriculture, including any customary building and structure, and such uses as livestock ranges, animal husbandry, field crops, tree crops, nurseries and greenhouses, and other agricultural occupations as defined in this chapter.
b) Ranch and farm dwellings appurtenant to a principal agricultural use."

- b) Retail sales of agricultural products produced on the farmland of the project should be permitted. City code 40.04.030 item (e) states the following accessory use is permitted in an A district:

"(e) Roadside stands not exceeding four hundred square feet in floor area for the sale of agricultural products grown on the premises."

**Letter 33
Cont'd**

Page 37
Table 3.4 -- MRIC Infrastructure Ownership & Maintenance

33-27

COMMENT 27:

a) There is confusion of the terms “greenbelt” and “agricultural buffer”, as on page 3-28 which combines the 2 terms and sums them as 43.0 acres of the project. Figure 3-12 includes, apparently, all open space as “Green Space”, but does nothing to define “greenbelt.” It does, however, identify 20.17 acres as the sum of the agricultural buffer area. Please distinguish between the two terms correctly and do the math correctly as well.

33-28

b) The MRIC project Greenbelt proposes to retain private ownership of the 20.17 acres of agricultural buffer, contrary to City of Davis precedent (e.g. the Wildhorse Buffer, which is listed by Yolo County Assessor's Office as APN 071-140-034, owned by the City of Davis, and the Cannery project, which is dedicating the agricultural buffer to the City for use as an urban farm).

If the City decides that it wants to contradict its previous policy of obtaining ownership of the agricultural buffer, the developer of the project (owner of the land) should grant a perpetual right-of-way easement to the City for public access on the 50-foot transitional area of this buffer that is proposed for public access as noted on page 4.2-4: “Proposed 50-foot portion of MRIC Agricultural Buffer: As indicated in Figure 3-14 of the EIR Project Description, the project's agricultural buffer is intended to include a biking and walking trail.”

33-29

COMMENT 28:

City-owned 25-acres. The 25 acres of city property needs to be acknowledged in the Project Description section. It is a major point of controversy and the EIR should be up front about it. Show it on maps and describe it. Table 3-4 (MRIC Infrastructure Ownership and Maintenance) lists open space as “private” only properties.

33-30

COMMENT 29:

Public access – Table 3-4 shows that hike paths, Ag Buffer With Green Space + Ponds/Drainage Channel and the Oval are publicly accessible. This is good to see included.

Page 39
Water

33-31

COMMENT 30:

The DEIR states that the project will try to use existing irrigation well water for landscaping and other non-potable uses, but if this supply is insufficient, the project will drill another water well to supplement this supply.

a) The existing well services the current agriculture. If agriculture is to remain for up to 20 years on the site, the needs of the remaining agriculture must be met. The DEIR should

**Letter 33
Cont'd**

calculate the remaining agriculture's water ET needs such that it can be estimated how much total water is needed for agriculture and the project.

- b) If a new water well is drilled, the impact on agriculture, for instance, the effect on the water table and availability of water in the project's neighborhood, should be examined as an impact.
- c) The DEIR states that City of Davis treated waste water is available for use to the project site as a source of water for the landscaping of the project. This is a perfect use of treated waste water; the project should prioritize its long term use for landscaping and make it available for agriculture on site.

**33-31
Cont'd**

**Letter 33
Cont'd**

CHAPTER 4.1: AESTHETICS AND VISUAL RESOURCES

Page 5
Viewer Types

33-32

COMMENT 31:

Why are views of the project said to be "limited" and of "short duration" for motorists? This does not seem like a fair characterization and is subjective. There is the time it takes to get all the way around the curve plus view from the I-80 overpass plus time at the traffic light, which will no doubt be longer if the project is built. Some people pass this way *every day*, which is also a factor. The DEIR should recognize that motorists' experience of the project would not be as limited as the report indicates. In addition, duration should not be the only consideration; the amount of change, the size of the project, and the heights of the buildings all contribute to the experience of the view and should be included.

33-33

COMMENT 32:

Pedestrians viewing the proposed project site should include visitors to Ikedas, to the gas station, etc. The impact to pedestrians is not stated in this section labeled "pedestrians," but it should be.

Page 7
Existing Conditions of Key Viewpoints

33-34

COMMENT 33:

Why are all four of the studied views across the street from the proposed project? (see pictures). There are no pictures or analysis of the views from Ikedas or from the side of the road adjacent to the project, but there should be.

33-35

COMMENT 34:

Views to the Sacramento skyline and the Sierra Nevada, which would be affected by the project, are not mentioned in any of the four viewpoints studied or in the analysis more generally. The protection of *scenic resources*, which are defined as views of significant landmarks and community gateways, is one of the City's open space priorities. The loss of these scenic resources should be taken into account as negative impacts of the proposed project.

33-36

Page 20
Project Specific Impacts and Mitigation Measures

COMMENT 35:

The DEIR states that there are no scenic views marked on the Davis planning map, but this is incorrect and thus should be corrected. Numerous city maps, including, e.g., ones marked "Priority Areas for Open Space Acquisition," show views to the east marked for this area. Thus, the "less than significant" conclusion for scenic views isn't warranted. Also, this map should be included in the DEIR.

**Letter 33
Cont'd**

CHAPTER 4.2: AGRICULTURE & FORESTRY RESOURCES

General Comments

Project Impacts & Mitigation Measures -- Agriculture

33-37

COMMENT 36:

There is no consideration of traffic impacts on neighborhood agriculture. In my experience, these can be quite severe, and lead to unsafe conditions: slow moving, large farm implements, trucks, etc. do not mix well with high speed traffic. The DEIR should consider traffic impacts on neighborhood agriculture.

Page 6

Local Setting

33-38

COMMENT 37:

City-owned 25-acres. The 25 acres of city property needs to be acknowledged in Chapter 4.2. It is a major point of controversy and the EIR should be up front about it. Show it on maps and describe it. Chapter 4.2's description of Local Setting (page 4.2-6) needs to include it as well, alongside discussion of the Mace 391 and Howatt Ranch properties.

**Letter 33
Cont'd**

CHAPTER 4.10: LAND USE AND URBAN DECAY

Page 14
Urban Decay

COMMENT 38:

Error in estimating open space area? - Table 4.10-1 (page 4.10-14) describes 75 units of open space. Add the type of units (acres?) and describe why they differ from the 64.6 acres used elsewhere. Or correct it.

33-39

**Letter 33
Cont'd**

CHAPTER 7: ALTERNATIVES ANALYSIS

General Comments

33-40

COMMENT 39:

In Chapter 7, the DEIR should directly consider an alternative that includes a community farm on the twenty-five acres already owned by the City. Over the last eight years, past and present City Councils directed the OSHC to study the feasibility of a community farm, evaluate properties, and recommend a parcel. After reviewing many properties, the OSHC decided that this was the most promising site. An alternative with housing is already considered in the DEIR; an alternative with the community farm is similar in that it would mitigate some of the negative impacts of the proposal (in this case, by preserving more agricultural land and scenic resources).

33-41

COMMENT 40:

The DEIR does not describe possible sites for 2-1 agricultural mitigation. This makes it impossible to judge the environmental impact in an informed way. The DEIR should discuss proposed mitigation sites.

33-42

COMMENT 41:

The DEIR seems to make judgments about the importance of different environmental impacts, e.g., loss of agricultural land vs. traffic impacts in advocating for the mixed alternative, without providing any justification for those apples-to-oranges comparisons. The DEIR should explain why it is putting more weight on the impacts of traffic as compared to the impacts of the loss of agricultural land.

33-43

Page 135

Off-Site Alternative A (Davis Innovation Center Site)

COMMENT 42:

The evaluation of off-site Alternative A fails to note that the soils in this area are of a lower quality than those at the Mace property. So, the agricultural impact would be less. The DEIR should discuss this.

LETTER 33: OPEN SPACE AND HABITAT COMMISSION, CITY OF DAVIS

Response to Comment 33-1

The project applicant makes generic use of several terms related to open space, green space, and parks. Where the City has formal and/or regulatory definitions for these terms they have been used in the Draft EIR and will be used in the staff reports prepared for consideration by the Planning Commission and City Council.

Response to Comment 33-2

It is not necessary to include applicable local, state, or federal regulations as a part of the project description or in the Draft EIR. Compliance with legal requirements is an assumed component of the project. It is appropriate to summarize applicable regulations in the regulatory setting sections of the Draft EIR.

The items identified in the comment will be considered by staff for possible inclusion in recommended conditions of approval for the project.

Response to Comment 33-3

The habitat provided by the project would not necessarily be similar to other industrial or residential land uses within the City. The project site is on the edge of the City of Davis, adjacent to agricultural land, and thus, the project must include a minimum 150-foot agricultural buffer (along its northwestern, northern, and eastern boundaries). Mitigation Measure 4.4-12 of Section 4.4, Biological Resources, requires the project applicant to submit a design plan for the proposed on-site buffer/drainage features (including the 150 foot agricultural buffer) to the Department of Community Development and Sustainability for review and approval. The design plan must demonstrate how the buffer/drainage features will be wildlife friendly natural spaces, with respect to details such as plant types, detention slopes, etc. In addition, approximately 64.6 acres (or 30.5 percent) of the 212-acre MRIC site would be maintained as parks and green space. Common species may utilize the on-site habitat, and nesting or migratory birds and other protected species may utilize the future on-site vegetation, trees, and green spaces.

Response to Comment 33-4

Thank you for the suggested clarification. Please see Response to Comment 33-3. Table 3-3 on page 3-31 of Chapter 3, Project Description, of the Draft EIR has been revised to change the description of “Perimeter Green/Open Space” to Perimeter Green Space”. The change is reflected in Chapter 2

Response to Comment 33-5

Thank you.

Response to Comment 33-6

As part of the review of the merits of the project, City staff is undergoing a detailed analysis of the proposed site layout and design. The analysis will be reflected in the staff reports prepared for the Planning Commission and City Council meetings, at which time action will be taken on the project. Green roofs will be considered for inclusion as a possible condition of approval.

Response to Comment 33-7

One project alternative, the Infill Alternative, was considered but dismissed from further discussion in Chapter 7, Alternative Analysis, of the Draft EIR. The No Project (No Build) Alternative, Reduced Site Size Alternative, Reduced Project Alternative, Off-Site Alternative A (Davis Innovation Center Site) and Off-Site Alternative B (Covell Property) were analyzed comparatively in Chapter 7, Alternatives Analysis, of the Draft EIR. In addition, Chapter 8, Mixed-Use Alternative, includes an analysis of the Mixed-Use Alternative at a level of detail equal to that prepared for the project. Chapter 2, Executive Summary, of the Draft EIR includes a summary of the analysis completed within Chapter 7, Alternatives Analysis, and Chapter 8, Mixed-Use Alternative of the Draft EIR. The ability of each alternative to reduce environmental impacts and attain the project objectives was used to determine which of the alternatives would be considered environmentally superior to the project.

Section 15126.6 of the CEQA Guidelines requires an EIR to describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather, an EIR must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation.

Response to Comment 33-8

The Draft EIR includes analysis of both the Reduced Site Size Alternative and the Reduced Project Alternative. As noted on pages 7-4 and 7-5 of Chapter 7, Alternatives Analysis, of the Draft EIR, the Reduced Site Size Alternative would result in less impact overall as compared to the proposed project simply because the site size is reduced. This alternative would meet some of the objectives of the proposed project. However, the smaller site size would make it difficult to achieve a sufficient long term land supply for the full range of projected uses including those that require larger building footprints. The smaller site would double the intensity of development over the site which would result in design challenges and may be too dense to attract some desirable research and development (R&D) users. The ability to attract medium-scale and large-scale users would be affected by the small footprint and there would be less flexibility in the user space to address the specific needs of some tenants as a result.

As noted on page 7-6 of Chapter 7, Alternatives Analysis, of the Draft EIR, the Reduced Project Alternative would result in less than 50 acres of development, just over one half million square feet, and is projected to be built out in under five years. This alternative would result in less

impact as compared to the project; however, it fails to achieve the fundamental objectives of the City or the applicant to develop an integrated innovation center campus of approximately 200 acres in size, with sufficient land to meet demand over a 20 to 25 year period. As a result, this alternative would not result in a critical mass of users of various sizes sufficient to allow for a full range of research and market uses. It is also unlikely to support the necessary infrastructure and amenities to meet the City's sustainability, transportation, work environment, and fiscal/community benefit objectives. The City would be unlikely to capture a greater share of local and regional business growth with such a small site. Because the overall gross floor-area-ratio (FAR) for this Alternative is approximately 0.38, this Alternative would not be consistent with the City's goal of at least 0.5 FAR. Also, the lack of hotel and conference center would not be consistent with the project objectives concerning the provision of such uses.

Please also refer to the Response to Comment 33-9.

Response to Comment 33-9

Both the project applicant and the City developed several project objectives for the proposed project. The alternatives to the proposed project were analyzed based on their ability to reduce environmental impacts and to attain most of the project objectives. The objectives developed by the City of Davis reflect findings of the 2010 Business Park Land Strategy; Innovation Park Task Force, 2012, Davis Innovation Center Report (Studio 30); adopted 2012 Dispersed Innovation Strategy; the 2014 Davis Innovation Center Request for Expressions of Interest (RFEI) and 2014 Guiding Principles for Davis Innovation Center(s). According to pages 15 through 20 of the Studio 30 report, *"Most remaining small, dispersed sites in the City are not adequate to meet needs of growing businesses and mid-sized companies. The Innovation Centers studied by Studio 30 for the Davis Innovation Center Report averaged around 200 acres in size and offer a variety of parcel sizes and ownership opportunities, flexible use/size of space and lease terms; and physical and virtual business support services allowing successful businesses to remain as they grow."* In addition, according to the Studio 30 report and the RFEI, *"A 200 acre innovation center supporting several million square feet of development could accommodate such business growth over a long term 20+/- year period (Studio 30 and RFEI)."*

The Mixed-Use Alternative assumes the same 212-acre site as the project but reduces some of the area identified for parking in order to free up approximately 34 acres for high-density housing. Some of the parking in the Mixed-Use Alternative is assumed to be stacked. There is also slightly more green space in the Mixed-Use Alternative as a result of the site design changes.

Please also see Responses to Letter 34.

Response to Comment 33-10

For clarification purposes, page 2-6 of Chapter 2, Executive Summary, is hereby revised as follows:

The Reduced Site Size Alternative would result in less impact overall as compared to the proposed project simply because the site size is reduced. The Reduced Site Size Alternative would, ~~however,~~ result in ~~greater~~less impacts than the proposed project related to aesthetics because only 50 percent of the 212-acre project site would be developed under this Alternative (i.e., increased building heights). This alternative would meet some of the objectives of the proposed project. For example, the Reduced Site Size Alternative would meet City objective number two which aims to maximize density to accommodate long-term business growth. However, the smaller site size would make it difficult to achieve a sufficient long term land supply for the full range of projected uses including those that require larger building footprints. The smaller site would double the intensity of development over the site which would result in design challenges and may be too dense to attract some desirable R&D users. The ability to attract medium-scale and large-scale users would be affected by the small footprint and there would be less flexibility in the user space to address the specific needs of some tenants as a result.

Response to Comment 33-11

Impact 4.1-1 on page 4.1-20 of Section 4.1, Aesthetics and Visual Resources, addresses the potential for adverse effects on scenic vistas. As noted in the analysis, the City's general plan contains no designated or protected scenic vistas. Therefore, the impact is identified as less than significant. The Draft EIR analysis acknowledges that development of the project site, including the City-owned 25 acres, would degrade the existing visual character or quality of the site and surroundings. Impacts related to the visual character or quality of the site and surroundings are addressed in Impact 4.1-2, which is identified as significant and unavoidable.

The OSHC has developed an exhibit entitled Open Space Priorities with Public Lands as of 2013, which depicts views of the Sacramento Skyline east from CR 105. This figure is included as Appendix D to this FEIR. Staff will be examining site design and recommend conditions of approval to capitalize on these views and others.

Response to Comment 33-12

Please see Master Response #6, Project Ownership. The intentions and concerns of the Open Space and Habitat Commission are noted. The City Council has allowed the applicant to submit an application that includes the City-owned property. If the project moves forward, the applicant will need to execute an agreement with the City regarding the disposition of the property. The property will be addressed as a part of the Development Agreement. Please see Response to Comment 13-3.

Response to Comment 33-13

Thank you for the suggestion regarding use of locally native trees in project landscaping. Staff will include this as a recommended condition of approval.

Response to Comment 33-14

The proposed project is not subject to the Yolo County agricultural mitigation requirements. The mitigation included in the Draft EIR is consistent with the Yolo County Local Agency Formation Commission (LAFCo) and City of Davis agricultural mitigation requirements. As stated in Mitigation Measure 4.2-1(a) on pages 4.2-28 and 4.2-29 of Section 4.2, Agriculture and Forestry Resources, the agricultural mitigation land shall be comparable in soil quality with the agricultural land being changed to nonagricultural use. In addition, the easement land must conform with the policies and requirements of LAFCo including a LESA score no more than 10 percent below that of the project site. A LESA analysis was not performed for the Draft EIR analysis but will be required by LAFCo as a component of the future annexation application. The availability of water for the agricultural land will be confirmed during the mitigation land acquisition process.

Response to Comment 33-15

If impacts to the elderberry shrub cannot be avoided the mitigation measure allows for mitigation through the purchase of conservation credits or transplantation of the shrub to a suitable site. Either option is subject to oversight by the City's biologist. The commenter makes three suggestions that could be considered in implementing the measure consistent with the Draft EIR, or as part of the project landscaping plan. These include: a) transplantation within the City's existing open space network; b) planting additional shrubs to create habitat; and c) creating habitat within project open space. These measures will also be considered by staff as part of the development of conditions of approval for the project.

Response to Comment 33-16

Section 4.4, Biological Resources, of the Draft EIR provides a detailed giant garter snake (GGS) impact analysis beginning on page 4.4-54. Impact 4.4-3 concludes that "Urban influence, artificial hydrology, vegetation maintenance, culverts, and lack of water and suitable prey items during the active season make it unlikely that GGS would be able to travel to the site. Suitable GGS habitat is not present in the MDC within the MRIC site."

To document the hydrology of the Mace Drainage Channel (MDC), Sycamore Environmental conducted 16 site visits between January 26, 2015 and November 30, 2015 (see Response to Comment 33-17 for a list of all survey dates). On each survey date, the MDC between Mace Boulevard and CR 105 was observed to determine if aquatic habitat for GGS was present. Based on the 16 observations and data from other survey dates, the MDC, west of CR 105, does not provide suitable aquatic habitat for GGS because insufficient water exists in the MDC during the GGS active season to support a GGS population, or to facilitate dispersal.

The Draft EIR addresses potential impacts to GGS at the potential off-site volume storage pond improvement area, north of the Railroad Channel. Mitigation Measures 4.4-3(a) and 4.4-3(b) are included in order to reduce potential GGS impacts to a less-than-significant level.

Section 4.9, Hydrology and Water Quality, of the Draft EIR addresses potential stormwater runoff and water quality impacts. Impacts 4.9-2 (water quality during construction) and 4.9-3 (water quality during operation) describe potential impacts related to runoff during construction and operation. Mitigation Measure 4.9-1 is included in order to reduce potential impacts to a less-than-significant level. Impact 4.9-3 was determined to be less than significant.

Response to Comment 33-17

Please see Master Response #7, Western Burrowing Owl. The Draft EIR does take into account the concerns expressed in the comment. The Biological Resources Evaluation (Draft EIR Appendix D.1) considered all of the CNDDDB records in the nine quadrangle search, which covers a larger area than a one mile search. The CNDDDB is a database of actual occurrences of many special-status plants, animals, and ecological communities in California. Both on-site and off-site nesting and foraging habitat for burrowing owl is summarized in the Existing Environmental Setting section of Section 4.4. There are no CNDDDB records documenting burrowing owl on the project site within the last six years. The records mapped as overlapping the site are Ranked “D” by CNDDDB, indicating small or non-viable populations not expected to persist over five years.

In response to the comment, the CNDDDB was queried again to determine if any new records have been added as of December 2015. New CNDDDB records for burrowing owl have not been added within one-mile of the project site. Although CNDDDB has records of burrowing owls near the project site prior to 2005, records of burrowing owl near the project site have not been documented in the CNDDDB since that time. Sycamore Environmental biologists familiar with burrowing owl conducted 19 surveys on the project site on the following dates (five of which were surveys of the entire MRIC site):

- 7 October 2014 (entire site)
- 10 December 2014 (entire site)
- 23 December 2014 (entire site)
- 26 January 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)
- 30 January 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)
- 12 February 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)
- 20 February 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)
- 2 March 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)
- 13 March 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)
- 9 April 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)
- 23 April 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)
- 7 May 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)
- 19 May 2015 (entire site)
- 22 June 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)
- 11 July 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)
- 11 August 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)
- 11 September 2015 (entire site)

- 10 October 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)
- 30 November 2015 (Mace Drainage Channel from Mace Boulevard to Road 105)

Burrowing owls or burrowing owl signs (pellets, feathers, whitewash, etc.) were not observed on the MRIC property during any of the above surveys. However, Section 4.4 of the Draft EIR acknowledges that burrowing owls may be present or become established on the MRIC site and in off-site improvement areas. Consequently, Mitigation Measure 4.4-4(b) requires that the applicant comply with the CDFW 2012 *Staff Report on Burrowing Owl Mitigation* (CDFW 2012) by (1) conducting surveys consistent with the 2012 Staff Report to determine whether burrowing owls are occupying the site prior to each phase of the project, and, if active dens are found within the project area, (2) implementing avoidance, minimization and, if the project would impact active dens, mitigation, consistent with the 2012 Staff Report. The 2012 Staff Report is a guidance document which draws from the most relevant and current knowledge and expertise, and incorporating the best scientific information available pertaining to the species. The 2012 Staff Report is designed to provide a compilation of the best available science for CDFW staff, biologists, planners, land managers, CEQA lead agencies, and the public to consider when assessing impacts of projects or other activities on burrowing owls.

Response to Comment 33-18

Potential project impacts to white-tailed kite are addressed in Impact 4.4-6, Impacts to raptors, nesting birds, or other birds protected under the Migratory Bird Treaty Act (MBTA). As noted on pages 4.4-66 and 4.4-67 of Section 4.4, Biological Resources, white-tailed kites could nest in the Fremont cottonwood trees, in the trees in eucalyptus groves located east and north (along the northerly sewer alignment) of the site, or in the willow trees at the southeast portion of the off-site pond survey area. Trees in the MRIC site are unlikely to be used for nesting because the trees are young and isolated. Nevertheless, as required by Mitigation Measure 4.4-6 on pages 4.4-67 and 4.4-68 of Section 4.4, Biological Resources, the project applicant for the MRIC shall implement measures to avoid or minimize impacts to Migratory Birds and other protected bird species.

Response to Comment 33-19

Impacts on wildlife movement and connectivity are discussed in Impact 4.4-9. The section specifically notes:

The [Mace Drainage Channel] and other drainage ditches traverse the MRIC site. The MDC would not be filled and would be retained as a drainage feature upon development of the MRIC. Although a portion of the MDC would be piped below ground near the proposed Oval park, the MDC could still be used for wildlife movement after development.

The Draft EIR notes that this connectivity, in combination with the connectivity offered by the project's agricultural buffer and green spaces within the site, will not impede wildlife movement, and therefore concludes that the impact is less than significant.

Response to Comment 33-20

As described and shown in photographs in the Biological Resources Evaluation (Draft EIR Appendix D.1), the project site contains very little vegetation. The site is composed primarily of actively farmed and tilled agricultural fields that lack pollinator resources during much or all of the year. Roadsides are graded and treated with herbicides. The project includes a total of 64.6 acres of green space, including 20.12 acres of agricultural buffer between the project site and adjacent agriculture. Uses permitted in the agricultural buffer include community gardens, organic agriculture, native plants, and tree and hedge rows. Planted and naturally occurring flowering plant species in these areas will continue to provide pollinator resources at similar or improved levels after the project is built. Compensatory mitigation for Swainson's hawk (Draft EIR Mitigation Measure 4.4-5) will also conserve native pollinator resources.

Response to Comment 33-21

The concerns regarding the level of specificity of the project objectives is noted for the record. Both the project applicant and the City developed objectives for the proposed project. The City objectives are derived from the Innovation Center Guiding Principles approved by the City Council.

Seven alternatives to the project were examined in the Draft EIR including one (Mixed-Use Alternative) at a level of detail equal to that of the project. None of the alternatives in Chapter 7 of the Draft EIR have been rejected. They will be considered by the City Council during the hearings on the project and may be rejected at that time.

See Responses to Comments 33-7 and 33-9.

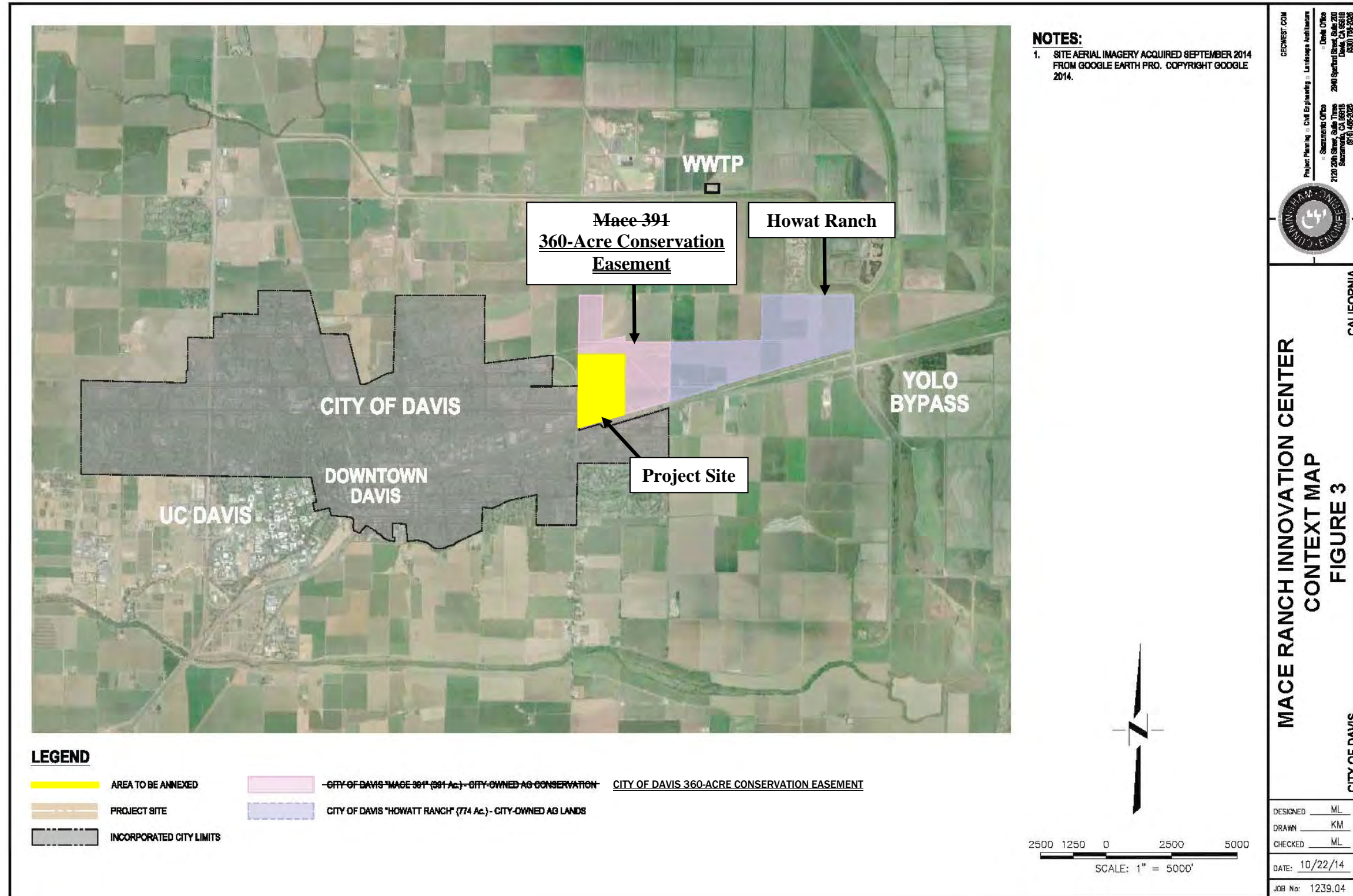
Response to Comment 33-22

Please see Master Response #6, Project Ownership. The City's ownership of the 25 acres and the fact that the property has been considered for a community farm are both acknowledged on page 2-13 of the Draft EIR as "areas of controversy and issues to be resolved".

Response to Comment 33-23

Figure 3-2, referenced by the commenter, does not show the Mace 391 easement (also known as Leland Ranch); however, Figure 4.2-1 does. This figure and the text in the Draft EIR have been revised to clarify the point made in the comment. Figure 4.2-1 on page 4.2-7 of Section 4.2, Agriculture and Forestry Resources, is hereby revised as follows:

Figure 4.2-1
Context Map



In addition, for clarification purposes, page 4.2-6 of the Draft EIR, and all similar references throughout the Draft EIR, are revised as follows:

As shown in Figure 4.2-1, the approximately 229-acre proposed project annexation area is located on an agricultural property, adjacent to the existing city limit line along Mace Boulevard, in east Davis. The annexation area is surrounded to the north and east by ~~the Mace 391~~ a 360-acre permanent agricultural easement. This ~~391-acre~~ agricultural easement property is regularly farmed; the owners are in the process of planting almond trees. According to the current ~~Mace 391 property~~ farmer for the 360-acre property, ground rigs are routinely used for applying pesticides on the property unless circumstances dictate the use of aerial application. The farmer considers aerial application as a last resort that may be utilized after heavy rain events when on-site muddy conditions prevent ground rigs from being able to travel throughout the property². For the ~~Mace 391~~ farmer, ground spraying is a less expensive method of applying pesticides compared to aerial application.

East of the ~~Mace 391~~ 360-acre property is the 774-acre, City-owned Howat Ranch property. The Howat Ranch site is also under agricultural production. Immediately west of the proposed project site, on the opposite side of Mace Boulevard, are an Arco gas station and the University Covenant Church. The Union Pacific Railroad and Interstate 80 are located to the south of the site.

Response to Comment 33-24

The commenter's position regarding the applicant's stated objectives is noted for the record and will be considered by the decision-makers during deliberations on the project.

Response to Comment 33-25

For clarification purposes, pages 7-4 and 7-5 of Chapter 7, Alternatives Analysis, are hereby revised as follows:

The Reduced Site Size Alternative would result in less impact overall as compared to the proposed project simply because the site size is reduced. The Reduced Site Size Alternative would, ~~however,~~ result in greater~~less~~ impacts than the proposed project related to aesthetics because only 50 percent of the 212-acre project site would be developed under this Alternative (i.e., increased building heights). This alternative would meet some of the objectives of the proposed project. For example, the Reduced Site Size Alternative would meet City objective number two which aims to maximize density to accommodate long-term business growth. However, the smaller site size would make it difficult to achieve a sufficient long term land supply for the full range of projected uses including those that require larger building footprints. The smaller site would double the intensity of development over the site which would result in design challenges and may be too dense to attract some desirable R&D users. The ability to attract medium-scale and large-scale users would be affected by the small footprint and there would be less flexibility in the user space to address the specific needs of some tenants as a result.

In addition, page 7-60 of Chapter 7, Alternatives Analysis, is hereby revised as follows:

This alternative would meet some of the objectives of the proposed project. For example, the Reduced Site Size Alternative would meet City objective number two which aims to maximize density to accommodate long-term business growth. However, the smaller site size would make it difficult to achieve a sufficient long term land supply for the full range of projected uses including those that require larger building footprints. The smaller site would double the intensity of development over the site which would result in design challenges and may be too dense to attract some desirable R&D users. The ability to attract medium-scale and large-scale users would be affected by the small footprint and there would be less flexibility in the user space to address the specific needs of some tenants as a result.

Response to Comment 33-26

The text identified by the commenter is a part of the applicant's proposal. The City has taken no position on the zoning language proposed as part of the Preliminary Planned Development. The staff is reviewing the proposed zoning language as part of the review of the merits of the project and may propose modifications for consideration by the Planning Commission and City Council as part of the staff reports prepared for upcoming hearings to take action on the project.

Response to Comment 33-27

Please see Response to Comment 33-1 related to use of terms.

Response to Comment 33-28

Details regarding public access, ownership, and maintenance must be determined prior to final action on the project and will be detailed in the conditions of approval and development agreement. The City has not yet determined whether the buffer will be owned in fee by the City or by a private party. The commenter is correct that, notwithstanding ownership, appropriate easements or other agreements ensuring public access are required. Section 40A.01.050(c) of the Municipal Code requires that the applicant provide a plan for the establishment, management, and maintenance of the area; that the plan incorporate adaptive management concepts and include the use of integrated pest management techniques; and that the property be dedicated to the City in fee title, or, at the discretion of the City, an easement in favor of the City shall be recorded against the property.

Response to Comment 33-29

Please see Response to Comment 33-22.

Response to Comment 33-30

Thank you.

Response to Comment 33-31

Impacts related to water supply were discussed in Section 4.15, Utilities, and in Chapter 7, Alternatives Analysis. The EIR determined that adequate water supply exists to serve existing and future projected water demand within the City's service area, including the proposed project. As discussed in the Hydrology section for the No Project (No Build) Alternative (Impact 4.9-4), a reasonable range of irrigation demand at the site can be estimated by considering low- and high-level water demand crop types. On the lower end of the water demand scale, are sunflowers, which typically require approximately 2 acre-feet/year. On the higher end of the water demand scale, are almond trees, which typically require approximately 4 acre-feet/year. Assuming that the entire 212-acre project site is farmed, which is overly conservative given that perimeter roads will be needed, the total yearly irrigation water demand range could be from 424 acre-feet/year to 848 acre-feet/year. This equates to a range of approximately 138 to 276 million gallons per year.¹¹

As shown in Tables 4.15-19 thru 4.15-21 of the Draft EIR, surplus water would be available after accounting for water demand resulting from buildout within the City of Davis over the next 20 years, including the MRIC, Nishi, and Davis IC projects. As shown in Table 4.15-21, even under the multi-dry year scenario, in 2030 the City is projected to have a surplus of 1,429 acre-feet/year of water. This equates to 465,711,100 gallons per year. Such a surplus can accommodate ongoing agricultural uses at the project site should they continue as the project builds out.

Response to Comment 33-32

Views of the project are considered limited and of short duration for motorists in accordance with the methodology described in the Federal Highway Administration (FHWA) publication entitled Visual Impact Assessment for Highway Projects (1988). This methodology guided the assessment conducted in the Draft EIR. As noted on page 4.1-5 of Section 4.1, Aesthetics and Visual Resources, of the Draft EIR, motorists along Mace Boulevard, Interstate 80, and County Road (CR) 32A have existing views of the project site. Motorists would have limited views of the project due to short (low) duration of their views as they drive past the project site. The speed limits on the existing streets within the project vicinity are 40 miles per hour (mph) on Mace Boulevard, 35 mph at the turn south of the site on CR 32A, and 65 mph on Interstate 80.

Duration was not the only consideration when determining impacts related to aesthetics and visual resources. As noted on page 4.1-6 of Section 4.1, viewer exposure was determined by assessing the *number* of viewers exposed to the visual change, the physical *location* of the viewer, as well as the *duration* of their view. For example, a driver passing through the project vicinity at 35 mph would not be as sensitive to changes in the visual environment as a bicyclist riding through the area. After determining the appropriate viewer exposures for the project, the visual quality of the landscape was described using three criteria:

1. Vividness: The memorability of the visual impression received from contrasting landscape elements as they combine to form a striking and distinctive visual pattern.

¹¹ 1 acre-foot = 325,900 gallons. An acre-foot of water is enough to cover one acre of land one foot deep.

2. Intactness: The integrity of visual order in the natural and man-built landscape, and the extent to which the landscape is free from visual encroachment.
3. Unity: The degree to which the visual resources of the landscape join together to form a coherent, harmonious visual pattern. Unity refers to the compositional harmony or intercompatibility between landscape elements.

Response to Comment 33-33

As noted on page 4.1-5 of Section 4.1, Aesthetics and Visual Resources, pedestrians include school children walking to/from the nearby junior high school, and local residents walking along Mace Boulevard for exercise purposes or traveling to/from the nearby church or businesses along 2nd Street. The ARCO gas station and Ikedas Market are included as the businesses along 2nd Street.

Response to Comment 33-34

Viewpoints #1, #2, and #4 are located across the street from the proposed project site. The aforementioned viewpoints were included in order to represent views from the residential receptors across the street from the project site. Viewpoint #3 is located on the same side of Mace Boulevard as the proposed project site. Therefore, pictures and associated analysis of the views from the side of the road adjacent to the site are included in Section 4.1, Aesthetics and Visual Resources, of the Draft EIR. Views from Ikedas Market were not included because Ikedas Market is located on the project site. The viewpoints are meant to represent changes of the project site from viewers located off-site.

Response to Comment 33-35

Please see Response to Comment 33-11.

Response to Comment 33-36

Please see Response to Comment 33-11.

Response to Comment 33-37

Most of the project traffic would travel on major arterial and collector streets that already serve urban levels of vehicle traffic. For example, the baseline forecasts for the project-specific traffic analysis anticipate only approximately 100 project trips being assigned to County Road 32A. Therefore, no significant impact on neighborhood agriculture (defined as community gardens, private residential gardens, etc.) from project vehicles is expected.

Response to Comment 33-38

Please see Response to Comment 33-22.

Response to Comment 33-39

For clarification purposes, Table 4.10-1 on page 4.10-14 is hereby revised as follows to reflect the correct acreage include in Table 3-2 of the Project Description chapter:

Table 4.10-1	
MRIC Site – Summary of Uses by Type	
Land Use	Size
Total Square Footage	2,654,000 sf
<i>Research; Office; R&D</i>	<i>1,510,000 sf</i>
<i>Manufacturing; Research</i>	<i>884,000 sf</i>
<i>Ancillary Retail</i>	<i>100,000 sf</i>
<i>Hotel/Conference</i>	<i>160,000 sf (150 rooms)</i>
<i>Total Acres</i>	<i>212</i>
<i>OpenGreen Space</i>	<i>7564.6</i>
<i>Residential (units)</i>	<i>0</i>
Notes: sf = square feet	
Source: BAE Urban Economics. City of Davis Economic Evaluation of Innovation Park Proposals. July 9, 2015.	

Response to Comment 33-40

The Draft EIR does not analyze a community farm on the City’s 25 acres in the northwest corner of the project site because a community farm is not a part of the proposed project, nor did the City Council indicate that a community farm should be a component of the alternatives when they reviewed them in December of 2014. Should a community farm be considered a desirable component of the project, the MRIC project would not preclude inclusion of a community farm. The applicant lists “agriculture” as a permitted use in the proposed Preliminary Planned Development. The alternatives analyzed in the Draft EIR are flexible enough to cover a community farm in various locations on the project site, providing the City Council with a variety of options to consider. The alternatives in the Draft EIR provide for a reasonable range of alternatives that are directed to the potential adverse impacts of the project.

Response to Comment 33-41

The applicant has not formally provided information regarding proposed sites for agricultural mitigation. However, disclosure of such sites is not required for an adequate EIR. The location of the agricultural mitigation is important and will be subject to review and approval by the City and the Open Space and Habitat Commission (serving as the Davis Farmland Conservation Advisory Committee) and the City Council in order to determine consistency with City requirements. Analysis of potential agricultural mitigation sites for preservation of agriculture would not be considered to have adverse physical environmental impacts; rather, implementation of the mitigation measure will have the beneficial effect of permanently protecting agricultural uses off-site.

Response to Comment 33-42

The Mixed-Use Alternative was evaluated at a level of detail equal to the proposed project. The impact statements included in Chapter 8, Mixed-Use Alternative Analysis, are identical to those analyzed for the proposed project. The impact statements are based on Appendix G of the CEQA Guidelines. The level of analysis for impacts related to transportation is more detailed because impacts for the alternative would be different than impacts for the project and the text reflects that analysis. Fehr and Peers conducted a detailed traffic analysis to determine how the traffic impacts of the Mixed-Use Alternative would differ from the proposed project impacts. Impacts to agricultural resources would be the same under both the proposed project and Mixed-Use Alternative so the analysis did not need to be repeated. All technical chapters were weighted equally when determining the environmentally superior alternative in Chapter 7, Alternatives Analysis.

Response to Comment 33-43

Impacts related to agriculture and forestry resources as a result of Off-Site Alternative A were determined to be less than the proposed project. As noted on page 7-136 of Chapter 7, Alternatives Analysis, the California Department of Conservation has defined the Davis IC site as Farmland of Local Importance (approximately 200 acres or 96.6 percent of the project site), Farmland of Local Potential (approximately five acres or 2.4 percent of the project site), and Urban Land (approximately 2 acres or 1.0 percent of the project site). Therefore, Off-Site Alternative A would not result in the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. In contrast, the proposed project would convert Prime Farmland and Farmland of Statewide Importance. Therefore, impacts related to such would be less than the proposed project.

In addition, as noted on page 7-137 of Chapter 7, the Off-Site Alternative A site is comprised of Local Farmland and Potential Local Farmland, and the site is currently used for agricultural uses. Under City regulations, conversion of the Davis IC site would be considered a significant and unavoidable impact and would require off-site agricultural land mitigation at a ratio of two acres to one acre. The impact for Off-Site Alternative A would be similar to the proposed project; however, Off-Site Alternative A is slightly smaller (207 acres under Off-Site Alternative A and 212 acres under the proposed project). Thus, the impacts associated with agriculture and forest resources under Off-Site Alternative A would be less than the proposed project. Because active agricultural land would still be permanently converted to urban uses, a significant and unavoidable impact would remain under Off-Site Alternative A.

Letter 34

From: Judy Corbett [<mailto:judycorbett@sbcglobal.net>]
Sent: Wednesday, November 11, 2015 9:32 AM
To: Mace Ranch Innovation Center <maceranchinctr@cityofdavis.org>
Cc: Nancy Price <nancyprice39@gmail.com>; Alan Hirsch <ahirsch@neighborhoodselect.org>;
Kemble K. Pope <kemblekpoppe@gmail.com>; Michael Bisch <michael@davisproperty.com>
Subject: Comments on Mace Ranch EIR

Dear MRIC Project Planner,

I am submitting comments in response to the Mace Ranch EIR. I hold a Master's Degree in Ecology from UC Davis and was a partner in the planning and development of Village Homes. More importantly, I am the founder and for over 30 years, was Executive Director of the Local Government Commission, a membership organization of California local elected officials and staff. During that time, I wrote, produced and published research documents for local government officials, organized annual national and a statewide conferences and organized multiple smaller seminars for mayors, city council members, county supervisors, city managers, and other top level staff.

34-1

**Letter 34
Cont'd**

34-1
Cont'd

I have co-authored and produced a guidebook on local economic development and developed and distributed multiple fact sheets on local government programs and projects related to this topic. This information has been presented to local officials at multiple venues throughout the State. (Publications can be found on the Local Government Commission's web page: www.lgc.org)

I have two primary concerns about the draft Mace Ranch EIR.

1. The EIR failed to analyze the infill project alternative, even though there are 152 acres of zoned land in Davis waiting for development.

34-2

The EIR noted two reasons for this omission.

a. Smaller infill sites don't provide for the large scale manufacturing noted in the City's requirements. We note, however, that the EIR recommended alternative also fails to meet all the city's requirements. Given the noted advantage of its reduced environmental impact, the infill alternative should have been included for further analysis.

34-3

b. The city would be unlikely to capture a greater share of local and regional business growth because the city would not realize the benefits of an agglomeration of development. This statement is not completely consistent with the current state of the art. A number of cities throughout the country have found that innovators want to live and work in mixed use downtowns where they can live, work and play. . Even existing research parks are beginning to convert to a mixed use land use pattern. Further, the City/UCD study, "Studio 30" states . . "multi-site or a dispersed strategy may be the best approach for the city."

2. The EIR failed to take into account the high cost of land in the City of Davis when considering Mace Ranch as a site for large scale manufacturing.

34-4

Previous studies including "Studio 30" have noted that land suitable for large scale manufacturing is available at far lower cost per acre in our neighboring communities. A concern about stranded assets and the possible negative economic impacts it could have on the City should have been noted in the EIR.

My more in depth comments on the draft EIR are attached. Thank you for your consideration.

Best,

Judy Corbett

**Letter 34
Cont'd**

RESPONSE TO THE MACE RANCH DRAFT EIR
Submitted by Judy Corbett
November 11, 2015

34-5

I The infill alternative should receive full analysis as a viable alternative.

The draft EIR states that the infill alternative did not receive a full analysis because it fails to meet the city's requirement for larger scale manufacturing. It is notable that the suggested preferred alternative also fails to meet the city's requirements.

Other than failing to meet the large scale manufacturing considerations, it would seem that the 152 net acres in the City of undeveloped or partially developed properties already zoned for business meet all the other city's requirements. Further, the infill alternative is noted in the draft EIR as the alternative with the least environmental impact, (EIR *volume I – 2-6*)

34-6

The EIR mentioned a second reason for excluding the infill site as a viable option, however the validity of this assumption must also be questioned: *The city would be unlikely to capture a greater share of local and regional business growth because the city would not realize the benefits of an agglomeration of development, instead having a disconnected patchwork of development spread out in various sites.*

Today, innovation is widely recognized to be best supported in diverse and compact downtowns where one can find a mix of multiple businesses, housing, restaurants, entertainment, and transportation alternatives. This physical setting facilitates the chance encounters that have been found to lead to new ideas and new start up companies. A dispersed approach was noted of importance in the City of Davis' Innovation Center Study, *Studio 30* Report ("*... a multi-site or dispersed strategy may be the best approach for the city*" - *pg.45. City of Davis website*)

There is a trend today for established businesses to relocate to cities where the chance encounters that are so important to innovation, are supported on a daily basis. Further, such businesses are looking to attract well-educated millennials as employees and are finding that many millennials now prefer to live in downtowns where they can live, work and play.

The City of Berkeley has responded to this trend by creating its own, very successful, downtown innovation cluster. At last count, the City had 272 tech oriented small and large enterprises, mostly located near the campus in downtown Berkeley. Businesses are mixed with both existing and new housing, restaurants, cultural venues, retail and services. The number of tech-related businesses in this downtown cluster continues to grow, facilitated by support from the city for business incubators, networking, site location assistance, and other services.

34-7

Further, a number of research parks throughout the state are being updated, to include housing and other amenities, in effect creating a new version of a downtown. (See the attached article)

Related to the need for increased city revenues, recent research undertaken in Davis by architect Joe Minicozzi deserves attention. Minicozzi found that a sample of buildings in existing research parks in Davis yield far less property tax revenue per acre as compared mixed use buildings located in three story buildings located in downtown Davis.

34-8

II. Warnings about the high cost of land for large scale manufacturing in Davis has occurred in several preliminary studies. This should be noted in the draft EIR.

A manufacturing site alternative suggested by the Studio 30 Report, involves partnering with neighboring cities, particularly West Sacramento "*... where there is more available land and more flexible*

**Letter 34
Cont'd**

development policies. . . . The city could serve as an incubator fro businesses that could move on to surrounding communities with more available land. Studio 30, vii.

The experience of the city of Berkeley in attempting to attract and expand large-scale manufacturing is instructive. Between 1998 and 2008, Berkeley lost manufacturing business every year to other locations. By 2008, when the recession kicked in, the sector had already been reduced to almost half of what it was in 1998. The city concludes that this is because land prices are too high in Berkeley to allow new manufacturing businesses to be competitive. Small scale manufacturing, on the other hand, is still somewhat viable in this City.

While the cost of land in Davis is not as expensive as in Berkeley, property in Davis is considerably more expensive than in the neighboring communities of Woodland or West Sacramento. It would follow that the experience in Berkeley -- losing large-scale manufacturing to less expensive locations -- provides an important lesson to the City of Davis. This information should be taken into consideration in the EIR.

**34-8
Cont'd**

LETTER 34: JUDY CORBETT, INDIVIDUAL

Response to Comment 34-1

Thank you for submitting comments on the MRIC Draft EIR. Your concerns about the project are noted for the record.

Response to Comment 34-2

While a significant amount of vacant land may be zoned for development within the City of Davis, the collection of acres, spread over numerous non-contiguous sites that are controlled by multiple different owners, does not represent a viable alternative to a master planned innovation center, such as the Mace Ranch Innovation Center (MRIC). As noted on page 4.10-18 of Section 4.10, Land Use and Urban Decay, of the Draft EIR, “With removal of the eight (8) non-available sites from the 32, 24 vacant sites totaling approximately 82 acres remain currently available. Of these 24, the majority (19) are small sites, under four (4) acres in size, with 14 of these under two (2) acres in size. In addition, several sites along the 2nd Street corridor and within the Interland Research Park on Research Park Drive have had development proposals approved in the past that were not executed for a variety of reasons, and are held for future development by the current owners.” The aforementioned text indicates that substantially less vacant land is available for infill development than suggested by this comment and, in particular, the City is constrained in its ability to accommodate larger users with a reasonable selection of potential sites. In addition, coordinating the various owners of infill sites (some of whom may have no interest in developing or cooperating with other infill parcel owners) to undertake a systematic and concerted effort to effectively develop property and market to and attract the desired types of businesses would be impractical. The lack of large, contiguous parcels of land would not provide sufficient flexibility for an “infill” alternative to accommodate businesses such as Schilling Robotics. Some businesses need a large space initially, or prefer to have access to adjacent property for future growth.

Response to Comment 34-3

Downtown Davis is limited in the ability to accommodate new development, and large-scale redevelopment would be required in order to accommodate the roughly 2.6 million square feet of development proposed as part of the MRIC. In addition, most of the property in Downtown Davis is already developed, primarily in retail and small commercial uses. The business types targeted for the MRIC are large-scale manufacturing and commercial uses that could not feasibly locate on small sites available in the downtown or elsewhere in the City.

The comment advocates for a “multi-site or dispersed strategy” to accommodate business growth. The MRIC project is consistent with this strategy, as the project would provide a business location that expands the City’s portfolio of opportunities for businesses that would be interested in locating in Davis. The MRIC would be in addition to, not in place of, opportunities to accommodate business growth in other dispersed locations throughout the City of Davis. At the same time, the MRIC would offer an environment and building space for businesses that might not find suitable space in the Downtown area, or other commercial locations within the

City. For example, Downtown Davis is unlikely to be a suitable location for manufacturing uses, such as the 884,000 square feet of manufacturing and research space proposed for the MRIC. In addition, the MRIC would be in close proximity to existing housing, shopping, and other public amenities that are considered desirable components of mixed-use areas.

Response to Comment 34-4

The proposed MRIC seeks to provide locations for Davis companies that have outgrown their current sites, differentiate itself from other available sites within the surrounding area which in some cases may have a lower cost, and leverage unique attributes including: proximity to UC Davis, the region's only world class research university; accessibility via Interstate 80 (I-80) and Caltrain/Amtrak; a highly educated and skilled workforce; and the City's high quality of life. The project is proposed to build out in phases to accommodate variations in demand for sites over time.

Response to Comment 34-5

Please see Response to Comment 34-2. The size, shape, and configuration of existing land in Davis is not optimal for development as an innovation center as discussed in the Economic & Planning Systems (EPS) report. As stated on pages 7-16 and 7-17 of Chapter 7, Alternatives Analysis, of the Draft EIR, of the 153 net acres deemed suitable for business development, only 82 of those acres are currently available for development, and of the 24 available sites, the majority are under four acres in size. While the sites should be considered as assets to attract innovative companies, the sites do not satisfy the City's primary goal of addressing the lack of space for business growth. The sites should instead be viewed as part of an overall innovation ecosystem that includes existing assets, such as the Interland University Research Park and the 2nd Street Corridor, as well as the proposed innovation centers. Multiple innovation districts provide market segmentation that will improve absorption, as discussed in the EPS report. The Nishi and MRIC proposals, for example, serve different market segments, and synergies would be likely to arise from the combination of these projects, as well as their combination with existing innovation districts.

As stated in the EPS report, research shows that innovation centers are most successful when they provide a range of spaces that address the diverse needs of a variety of tenants in terms of age, size, and industry sector. While existing infill parcels may provide space for some small tenants, the parcels would not adequately satisfy the needs of larger tenants like Bayer CropScience which has relocated multiple operating units to West Sacramento after failing to find appropriate space in Davis. In addition, dispersed infill development poses strong challenges to the financing of specialized facilities such as wetlabs and clean rooms, which are necessary for large companies and small startups that typically lease portions of a larger specialized facility.

Furthermore, infill development would lack the support services that can be provided through the centralized management of a true, concentrated innovation center, such as incubator facilities, networking breakfasts, and workshops. Mission Bay, which is located in a quasi-downtown setting in San Francisco, is clearly a dedicated district to industry-academia interface. The

Mission Bay example shows that, even in a downtown setting, a successful innovation district requires a concentrated, critical mass of innovative companies and university tenants. While the case of Mission Bay is instructive, campus development was possible because of the presence of many abandoned railyards and warehouses. Davis does not possess available land at that scale.

Response to Comment 34-6

Studio 30's recommendation for a multi-site strategy does not refer to multiple infill sites, but to a strategy that includes multiple innovation centers, which "provides a variety of opportunities for all types of businesses in various states of growth." A variety would not be possible with an infill strategy alone, as the Studio 30 Report asserts. The same report states "if enough sites could be identified in the city, Studio 30 thought a dispersed site strategy with an internal site serving as a hub might be a good option for the city. After examining the possible sites, Studio 30 concluded that the existing sites had a number of constraints that made this strategy unworkable. The sites are too small, have poor access to infrastructure or transit, were already in the process of being developed, or the owners of the land were not interested in developing or redeveloping their land."

The commenter goes on to state that businesses are attracted to cities which attract well-educated millennials that prefer to live in downtowns where they can live, work, and play. The presence of such millennials living in downtown Davis will help support innovation activity throughout the City's innovation ecosystem, of which the downtown and the proposed MRIC are both pieces.

The commenter also mentions the example of Berkeley as a model for Davis. However, many UC Berkeley spinoff firms in biotech and other emerging industries, frustrated by unfriendly zoning and community leaders unreceptive to development, have leapfrogged Berkeley and located in Emeryville and Alameda, leading to the rise of business parks like Marina Village in Alameda.¹² Jordan Klein, Economic Development Project Coordinator for the City of Berkeley, has indicated that Berkeley still struggles today with a lack of space for UC Berkeley spin-off businesses. While new spaces have come online that are steps in the right direction, such as the Berkeley Skydeck and a branch of WeWork, the new spaces are not very large, and Klein says the City would love to have another few hundred thousand square feet of flexible, high quality office space to retain companies as they grow. Such space is extremely difficult to procure using an infill strategy, and as the Studio 30 report and the Draft EIR have stated, sufficient infill space is not available in Davis to meet the City's goals to provide space for growing businesses.

As noted in Response to Comment 34-2, infill in Downtown Davis is not a practical alternative to the MRIC due to the physical constraints to accommodating as much as 2.6 million square feet of additional commercial development in Downtown Davis.

Response to Comment 34-7

The commenter notes that many research parks are being updated to include housing and other amenities, and references an article about the Cottle Transit Village in San Jose (see Appendix E

¹² "Spontaneous Research Districts: Universities in Local Economic Development," EPS, 1997.

to this Final EIR). The Cottle Transit Village project involved consolidating a large business campus and creating a master plan for the remaining 172 acres that included residential, retail, park, and open space. The mixed-use concepts increase the vitality of the developed space and promote chance interactions among creative people. Cottle Transit Village may be more relevant to the MRIC proposal than an infill strategy, as both Cottle Transit Village and MRIC are master planned developments covering large acreage that would be impossible to assemble in downtown Davis.

The commenter points to research by architect Joe Minicozzi who found that existing research parks in Davis yield less property tax revenue per acre compared to mixed-use buildings in downtown Davis. His research encourages better utilization of the downtown core, with denser mixed-use development that can support business growth. However, certain large tenants, such as Schilling Robotics and DMG Mori, have needs that cannot be met through infill development and require space for larger, specialized facilities on larger parcels that Davis currently lacks. Even smaller R&D tenants with specialized needs, such as shared use of a clean room or wetlab, would be challenged to have those needs met in downtown where land prices and lease rates tend to be among the highest in the City.

As previously explained in Response to Comment 34-2, accommodating the MRIC's proposed 2.6 million square feet of innovation center uses in Downtown Davis is not practical from a physical standpoint. Downtown Davis is largely built out. In addition, as noted in Response to Comment 34-2, the MRIC proposal does in fact support a multi-site or dispersed strategy for accommodating business growth. Downtown Davis is positioned to accommodate different types and scales of business growth than what would be accommodated in the MRIC, and development of the MRIC would not preclude the City of Davis from realizing the benefits of additional infill and densification in Downtown Davis.

Response to Comment 34-8

Related to economic issues, the commenter notes the high cost of land in Davis. The high cost of land in Davis is a concern that has been described in the Fiscal and Economic Impact Analysis. Keeping such cost factors in mind is important for the review of proposed mitigation measures, impact fees, and special taxes in order to ensure that Davis remains competitive. However, land in Davis is well priced in relation to the nearby Bay Area, which is expected to generate some percentage of the Innovation Center tenants in Davis. While land costs in Davis are higher than some neighboring communities, Davis possesses assets for which tenants, including advanced manufacturers, are willing to pay premiums. University proximity is one such major asset. The relationships with the university that have cultivated and sustained the representation of such firms as DMG Mori and Schilling Robotics have been important factors in their decisions to remain and grow in Davis. The importance of the UC Davis connection also led Bayer CropScience to issue a Request For Qualification (RFQ) seeking space in Davis, and their eventual relocation to West Sacramento highlights the consequences of the City's deficiency of space for manufacturers. The amenities and high quality of life that Davis offers are additional assets for which employers will pay premiums, because they attract the younger, high-skilled workers that advanced manufacturers and other innovative companies seek as employees. While not all manufacturers are willing to pay premiums for land in Davis, those that are willing are

precisely the kind of tenants that innovation centers are designed to attract, as they understand the value of the assets that Davis has in providing fertile ground for innovative business activity, as well as the value of the assets that a centralized innovation center like MRIC would bring.

The MRIC project proposes approximately 884,000 square feet of “manufacturing, research” space. The businesses targeted for this space would not likely be involved with large-scale manufacturing of commodity items whose buyers are cost-sensitive and have many other choices of vendors. Rather, the MRIC would target specialty manufacturers of research and innovation-driven products with a high value-added component due to unique proprietary technologies that cannot be easily sourced from other suppliers. Products produced by companies like Schilling Robotics and DMG Mori in existing Davis facilities are examples of such operations which could have chosen other lower-cost locations, but which were instead attracted to Davis.

Letter 35

Nov. 11, 2015

To: MRIC Project Planner
City of Davis Department of community Development and Sustainability
23 Russell Boulevard Suite 2
Davis, CA 95616
maceranchinctr@cityofdavis.org

From: Dr. Billie Bensen Martin, DVM
44794 County Rd. 30
Davis, CA 95618
drbilliemartin@yahoo.com
(530) 304-5693

RECEIVED
NOV 12 2015
City of Davis
Community Development

Subject: Mace Ranch Innovation Center (MRIC) Draft Environmental Impact Report (DEIR)

35-1

Comments: My name is Billie Bensen Martin. I am a veterinarian and an organic farmer. Since 1999 I have been 1 of the 4 organic farmers in Yolo County whom have been raising organic alfalfa and grains for organic dairies in the Petaluma area that supply milk and other dairy products to our local stores. My 160-acre farm is located at the corner of roads 105 and 30, in close proximity to the proposed MRIC. This letter will address 2 of my concerns about the Mace project. I am requesting a written response from the City of Davis to my comments.

35-2

My first concern is to address the threat that the Mace project brings to the burrowing owls, which inhabit the area of the proposed innovation center. I have personally witnessed 2 burrowing owl families, which reside on road 104, in close proximity to the proposed project (included photos on pages 4 and 5). The DEIR does not adequately address the impact that the project will have on the habitat of these burrowing owls as well as other birds and wild life in the area. If the project goes through it will most certainly kill these 2 owl families as well as the others that occupy the land.

The Mace site should be preserved and protected as the habitat of some of the few remaining known burrowing owls in Davis.

35-3

For the purposes of this DEIR, Sycamore Environmental Consultants, Incorporated prepared a Biological Resources Evaluation which consists of a review of the California Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDDB), the California Native Plant Society (CNPS) Rare Plant Inventory, and United States Geological Survey (USGS) data for the area to determine what species might occur in the Study Area (project site). Sycamore also consulted the United States Fish and Wildlife Service Special Status Species Database website. Sycamore conducted field surveys of the site on October 7 and December 10, 2014. Based on this information, Sycamore developed an idea as to which special status species might occur within the Study Area.

1577

Nov. 11, 2015 Cont'd

35-3
Cont'd

Unfortunately, many species expected to occur on the site would not have been present during the fall and winter surveys when many species migrate out of the area or are much less active than in the spring and summer. In order to determine what species actually occupy the site, surveys should be done at appropriate times of the year. Ideally, these surveys would be done in the spring-early summer in addition to the fall/winter. Since they were not, Sycamore was not able to document many of the special status species expected to occur on the site, so they assume that they either are or are not there based on other documents which may or may not reflect conditions at the Study Site at this time. The DEIR states that surveys will be done prior to beginning of grading/construction, but this does not allow for public review of mitigation and any necessary monitoring measures to ensure that they are adequate for protection of the species.

In the case of burrowing owls, two CNDDDB records indicate that burrowing owl/s were observed near Mace and Road 104. They were not observed during the surveys done by Sycamore, since burrowing owls are most active and most likely expected to be seen between February and September, their mating, breeding and nesting season, which is when burrowing owl surveys should have been done. In fact, burrowing owls have been observed for some time in this area. This year there were four owls sighted in one burrow, and two adults and two young were documented by a local resident. This burrow is very near the footprint of the proposed project. There may be other active burrows on the project site as well, but the surveys conducted in October and December did not detect them. In addition, some burrowing owls are migratory, and would be gone from this area from October through January.

35-4

Mitigation measures to avoid or minimize impacts to burrowing owls will first consist of preconstruction surveys of the project area. If active burrows are found during nesting season, mitigation measures would consist of avoidance buffers. If owls are present outside the nesting season, passive exclusion of the burrows could be utilized with approval of CDFW. If burrowing owls are found on the site and the project would impact active burrows, the applicant would also provide compensatory mitigation which could include permanent protection of land elsewhere, deemed suitable for burrowing owl habitat, or purchase of burrowing owl conservation bank credits from a CDFW approved burrowing owl conservation bank.

These mitigation measures are not adequate for protection of the owl. First, avoidance of active burrows during construction would likely only continue until the young have left the nest, and then passive relocation utilized. Passive relocation is also recommended when owls are present outside the nesting season. Passive relocation consists of destroying the burrow entrance once the owls are out of the burrow and assuming they will find another suitable burrow near-by. Passive relocation can only work if there are suitable, unoccupied burrows near-by, outside of the construction area. This is generally not the case, and before the owl can find suitable shelter, it will likely fall prey to a hawk, dog, cat or other predator. Passive relocation, in general, does not work. There will be a permanent loss of burrowing owl habitat and of the owls that had occupied the site. Acquiring land elsewhere does not make up for the loss on site. There will be a net loss of burrowing owl habitat in the region.

207 7

Letter 35

Nov. 11, 2015 **Cont'd**

**35-4
Cont'd**

Mitigation for owl and habitat loss in terms of acreage set aside elsewhere or number of credits required to compensate for the loss of owl habitat depends on the number of owls present on the site. The requirement is 6.5 acres of owl habitat for each pair or single owl. In this case, since one pair and two young have been identified, is the mitigation to be 19.5 acres? Since inadequate surveys were conducted, the actual number of owls on this site is not known. If more owls are found on the site in subsequent surveys, will the acreage preserved elsewhere be increased to compensate for the loss of the actual number of owls? How is the public to know if mitigation will be adequate when the proper surveys were not conducted for the DEIR?

35-5

Burrowing owls have been extirpated from much of their historic range throughout the state. The population from the 80's through the 90's declined 60%, and more recent data indicates that this trend continues. The burrowing owl is a species of special concern and deserves protection. Davis has already allowed the complete extirpation of the owls on the University campus, as in other areas of the city. There was once a large colony on the Mace Ranch park, school and retail site which has completely disappeared. There were also colonies at Grassland Park and the Wild Horse golf course are also gone or struggling.

A burrowing owl census done in Yolo County through the joint efforts of the Woodland-Davis-based Burrowing Owl Preservation Society and the Institute for Bird Populations indicated a steep decline of the burrowing owl population in the County and in Davis. In 2007, the Institute and Fish and Game did a state-wide survey and this was used as a comparison. In 2007, there were 51 total burrowing owl breeding sites in Yolo County. In 2014 there were 15—a drop of 75%. In Davis, the 2014 census showed a drop from 32 pair to 2 pair of burrowing owls, all on the Wild Horse golf course.

California does not allow the methods of active relocation that are utilized in other states and are somewhat effective in preserving the owls and their habitat. Passive relocation, the only method of moving the birds permitted in California at this time, will almost certainly result in the death of the burrowing owl families that currently reside on and in the vicinity of the Mace project.

The Mace site should be preserved and protected as the habitat of some of the few remaining known burrowing owls in Davis.

387

Letter 35

Nov. 11, 2015 **Cont'd**

**35-5
Cont'd**



Burrowing owl on post along road 104, Davis CA taken July 13th 2015

4/7

35-5
Cont'd



Burrowing owls road 104 Davis CA Oct 7th 2015

35-6

My second concern is polluted drainage from the Mace project, which could potentially contaminate my organic alfalfa farm. The DEIR does not adequately address the initial magnitude of toxic drainage from the MRIC. The drainage ditches already flood the farms that they parameter, and the innovation center will only add to the substantial problem that already exists.

At the present time, any drainage from Roads 30A, 30B and 104 are directed to the southeast ditch along road 30 which borders the south end of my farm. This ditch is inadequate and often floods the south end of my farm. The culvert that passes from south to north under road 30, just before it intersects with road 105 does not accommodate the water produced at this time and is often the cause of the flooding on my farm. The Mace project propriety runoff if not captured on site will most certainly contribute to the already over loaded drainage ditches to the east.

587

Letter 35

Nov. 11, 2015 **Cont'd**

The Ramos team acknowledges that their property receives significant runoff from the west and will pass through their property and impact the farmers to the east of the project, one of which is my farm. This will significantly impact me and should be addressed in the EIR with plans to initially handle this runoff as opposed to dealing with it "if it occurs". The problem already exists and will most certainly get worse if the project moves forward.

This runoff is deserving of preventative measures and mitigation efforts to prevent that polluted runoff from contaminating my organic farm to the east.
The following photos show the severity of the problem even in the drought.

**35-6
Cont'd**



Southwest corner of 44560 country road 30 Davis CA 95618 Dec 14 2014, during our current drought.

6/7 7

Letter 35

Nov. 11, 2015 **Cont'd**

**35-6
Cont'd**



Northwest Corner of Road 105 and Road 30 December 2014, during the current drought
Thank you for considering my concerns and for your written response.

Dr. Billie Bensen Martin, DVM
44794 County Rd. 30
Davis, CA 95618
drbilliemartin@yahoo.com
(530) 304-5693

707

LETTER 35: DR. BILLIE BENSEN MARTIN, DVM, INDIVIDUAL

Response to Comment 35-1

Thank you for submitting comments on the MRIC Draft EIR. Your concerns about the project are noted for the record.

Response to Comment 35-2

Please see Master Response #7, Western Burrowing Owl. Based on survey data and CNDDDB records owls are not known to occupy the project area. The owl in commenter's page 4 photo appears to be associated with CNDDDB Record #994 (CNDDDB notes the two poles shown in the picture; the two poles are visible in Google Street view photos at this location; the tilled rows and landfill in background are also consistent with this location). This portion of County Road 104 is slightly over 500 feet (150 meters) north of the northern boundary of MRIC and will not be affected by the project.

The description of the location of the second burrowing owl den in commenter's page 5 photo is not detailed enough to verify that it is part of CNDDDB Record #994. If the second den is along County Road 104/County Road 30B, the den would be over 500 feet (150 meters) from the project site. The agricultural field between the MRIC project and County Road 104/County Road 30B to the north is part of the 360-acre agricultural property, which is protected in a permanent conservation easement.

As noted in Response 33-17, although no burrowing owls or evidence of burrowing owls were observed on the MRIC property during Sycamore Environmental surveys, Mitigation Measure 4.4-4 includes measures to detect, avoid, and mitigate for impacts to burrowing owl for all project phases. Surveys to detect owls are timed to occur prior to each phase of the project. Individual owls are protected with implementation of Mitigation Measure 4.4-4. Compensatory mitigation is required if the project would affect active burrows.

The comment in support of preserving the subject property as burrowing owl habitat is noted for the record and will be considered by the decision-makers during their deliberations on the project.

Response to Comment 35-3

Surveys and site visits conducted by Sycamore Environmental include surveys conducted in every month of the year (see list of surveys conducted in Response to Comment 33-17). Additional special-status species were not observed outside of those documented in the Biological Resources Evaluation. Surveys conducted in support of the Biological Resources Evaluation were adequate to describe and quantify habitat for all special-status species with potential to occur. Appropriately-timed surveys for special-status plants were completed in May and September 2015 and no special-status plants were observed.

The Draft EIR provides mitigation for impacts to species where impacts occur or are possible. All mitigation for biological impacts would be undertaken under the oversight of the City's on-staff biologist. The Draft EIR outlines survey timing and methods to completely avoid species with potential to occur (such as nesting birds).

Response to Comment 35-4

Please see Master Response #7, Western Burrowing Owl, for a discussion of known burrowing owl records and locations, as well as proposed mitigation for potential impacts to burrowing owl, including passive relocation.

Further, in response to the commenter's statement that "acquiring land elsewhere does not make up for" any permanent loss of burrowing owl habitat that might occur, CEQA allows for the preservation of off-site lands as mitigation for impacts to protected species. (*See, e.g., California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 614-626; *Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal.App.4th 1018, 1038.)

Response to Comment 35-5

The commenter is referred to the Response to Comments 33-17 and 35-2 regarding the number and adequacy of site surveys, a discussion of known burrowing owl records and locations, as well as mitigation for potential impacts to burrowing owl. The Burrowing Owl Preservation Society's 2014 census of burrowing owls does not appear to have detected any burrowing owls on the MRIC project site. Please see responses to Letter 46.

Response to Comment 35-6

As noted on page 3-43 of Chapter 3 of the Draft EIR, the existing City drainage ditch, the Mace Drainage Channel (MDC), which transverses the center of the MRIC site, would predominantly remain in place and continue to serve drainage flows from the MRIC site. However, the westernmost approximately 650 feet would be placed within a storm drainage pipe under the Oval park and the existing in-line detention basin adjacent to the existing drainage channel would be reduced in size and modified in shape and slope. Internal drainage corridors, and perimeter drainage retention areas, swales, and corridors, providing distributed detention storage and water quality treatment, would be constructed at the project site for purposes of collecting surface drainage and routing said drainage to the existing, centrally-located drainage channel (see Figure 3-19 on page 3-44 of Chapter 3 of the Draft EIR). Treated storm water would then flow off-site, through the existing Mace Drainage Channel, to the east, where the runoff would eventually enter the Yolo Bypass.

In addition to the drainage features proposed as part of the project, impacts related to drainage and stormwater runoff were analyzed in Section 4.9, Hydrology and Water Quality, of the Draft EIR. Specifically, the proposed stormwater treatment system and impacts related to water quality during operations were analyzed on pages 4.9-37 and 4.9-38 and impacts were determined to be less than significant. The detention facilities noted above would treat stormwater through

sedimentation and biological uptake of pollutants by surrounding vegetation, algae, and bacteria. While pollutants settle out within the basins, only the clean surface water within the basins would be allowed to exit into the MDC via outlet control structures. The facilities would be designed in accordance with all City guidelines. Furthermore, the MRIC would include Low Impact Development (LID) features throughout the site. For example, bioswales and rain gardens between the parking spaces would capture and filter runoff. Bioretention systems in conjunction with vegetated swales would be incorporated in planting strips or in green spaces and perimeter areas. Interconnected vegetated swales would be incorporated in the large parkways and medians as part of the roadway system to the extent possible. Bioswales and permeable paving in all parking areas would be encouraged to help reduce stormwater runoff.

With respect to mitigation of flooding, which is discussed on page 4.9-34 in Chapter 4.9, Mitigation Measure 4.9-1 (a) requires submittal of a design level drainage report with the first final planned development for the MRIC Site. The drainage report shall identify specific storm drainage features to control the 100-year, 24-day increased runoff from the project site to ensure that the rate of runoff leaving the MRIC site does not exceed stormwater flows beyond what currently exists.

Letter 36



COUNTY OF YOLO

Office of the County Administrator

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November 12, 2015

MRIC Project Planner
City of Davis Department of Community Development and Sustainability
23 Russell Boulevard, Suite 2
Davis, CA 95616

MRIC Project Planner:

36-1

The County of Yolo (County) has reviewed the Draft Environmental Impact Report (DEIR) for the Mace Ranch Innovation Center Project (Project), located on 212 acres immediately east of the City of Davis (City) in the unincorporated County. The County appreciates the City's responsiveness to the County's Annexation Framework (Exhibit A) and the ongoing discussion at the staff and elected level on these important issues. That said, as set forth below, the County has concerns regarding the DEIR's analysis and proposed mitigation for the loss of agricultural land and habitat, the potential for additional traffic and road impacts in the event County Road 32A is closed, and the assumptions underpinning the Mixed-Use Alternative. Furthermore, the County looks forward to discussing our mutual expectations and needs relevant to a tax sharing agreement and other fiscal considerations.

Loss of farmland

36-2

In total, the proposed project will convert approximately 202.8 acres of farmland (Impacts 4.2-1 and 4.2-3). Mitigation measures 4.2-1(a), 4.2-3(a), and 4.2-3(b) ensure mitigation at a minimum ratio of 2:1 pursuant to section 40A.03.25 of the City of Davis Municipal Code. Also, Mitigation Measure 4.2.-4 seeks to address impacts on agriculture on adjacent sites by requiring the applicant to attempt to purchase a "no-spray easement" on those lands. The County has several comments and concerns with these mitigation measures and related analysis in the DEIR.

First, the DEIR does not accurately describe the County's current agricultural mitigation requirements. Following an extensive public outreach effort over an eight-month period, the Yolo County Board of Supervisors adopted an ordinance extensively revising the County agricultural mitigation program on July 28, 2015. The County's current program includes a 3:1 base mitigation ratio for prime farmland, with opportunities for a reduced ratio if mitigation occurs in close (i.e., 0.25/mile) proximity to a city sphere of influence or in certain other defined areas. The County's current program—as with the prior program that had been in effect for nearly a decade—also requires mitigation on "like for like" farmland to ensure that the land preserved as mitigation has equal or better agricultural value.

**Letter 36
Cont'd**

**36-2
Cont'd**

For each of these reasons, the DEIR is inaccurate in stating that the proposed mitigation measures addressing the conversion of Prime Farmland and Farmland of Statewide Importance also satisfy relevant County requirements. The proposed measures are less stringent than the County's program with respect to the mitigation ratio, the location of mitigation, and the quality of mitigation land. At the very least, this disparity should be noted and briefly discussed in the Response to Comments for the sake of accuracy.

36-3

Second, with regard to the location of mitigation land, the DEIR states that the proposed project is exempt from the City's adjacent land mitigation requirement because the project is surrounded by lands with a conservation easement (page 4.2-31). As shown in Figure 4.2-1, a large portion of the project is indeed surrounded by protected lands. However, lands outside City limits to the west of the project site are not permanently preserved and should be targeted as high priority mitigation sites for this project. If this proves infeasible, then the measure should allow for the acquisition of alternative land within a defined geographic area (e.g., one-half mile from the project site or, consistent with the County's mitigation program, within 0.25 mile of the City's sphere of influence).

36-4

Third, while the DEIR incorporates the LAFCO mitigation equivalency standard (i.e., mitigation land must have a LESA score no more than 10% below that of the project site), the County recommends that the City incorporate true equivalency and require the mitigation land to equal or exceed the LESA score of the project site. (Also, just after language referring to the LAFCO equivalency standard, the mitigation measure states that the agricultural conservation easement "shall conform to the conservation easement template of the Yolo Habitat Conservancy." The Conservancy, however, does not have an agricultural conservation easement template.)

36-5

Fourth, the County notes that Figure 4.2-1 (Context Map) shows the project location relative to two major agricultural protected areas: Mace 391, a 391-acre permanent agricultural easement area, and Howat Ranch, a 774-acre City-owned agricultural property (Page 4.2-6). As depicted in the EIR, it would appear that the proposed Mace Ranch Innovation Center (MRIC) project will encroach on approximately 25 acres on the northwest corner of the Mace 391 site. It is the County's understanding that this 25-acre parcel, while part of the Mace 391 area, is not encumbered by a conservation easement. The EIR should clarify the actual protected acreage (encumbered by a conservation easement or similar instrument) and its relationship to the proposed project site. A fundamental purpose of an agricultural conservation easement is to protect land from urban development and therefore, the removal of such protection should carry a much higher mitigation burden than unencumbered agricultural lands. Furthermore, it is critical that parcels with agricultural easements remain indeed viable agricultural lands. In the event such parcels with agricultural easements are surrounded by development or are otherwise isolated, it may be increasingly difficult if not impossible to actively farm those parcels, thus nullifying the intent of the easement.

36-6

Fifth and finally, the DEIR at page 4.2-34 describes the effects of the proposed project on adjacent ongoing farming operations. The DEIR correctly describes the County requirement of a 500-foot buffer for the aerial application of certain pesticides. The proposed project includes an internal 150-foot agricultural buffer along its northern and eastern boundaries which would provide some level of protection to sensitive receptors but not that afforded by a 500-foot buffer

**Letter 36
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**36-6
Cont'd**

requirement. In order to address this, the DEIR proposes to impose a mitigation measure aimed at seeking an additional 400 feet of buffer area (Mitigation Measure 4.2-4) along the northern and eastern project boundaries. However, as drafted, the mitigation measure does not ensure that the buffer will be obtained (. . . stating the project proponent “shall attempt to purchase a no-spray easement”). As written, compliance with the mitigation measure could be achieved by simply documenting a failed attempt to purchase said no-spray easement.

Recognizing this eventuality, the DEIR should be amended to include a more detailed analysis of the potential adverse effects of aerial spraying if the additional 400-foot buffer is not obtained in terms of public health and agriculture (potential long term loss of productivity on the adjacent conserved farmland). In addition, the County strongly recommends that this language be modified to ensure that the total 500-foot no-aerial spray easement is actually obtained and recorded prior to the approval of the first final map or an alternative approach be developed in coordination with the County Agricultural Commissioner that would produce an analogous effect. Alternatively, the City should consider a mitigation measure that includes trees and other features that provide some protection against spray drift and other effects of agricultural chemical spraying on adjacent properties. The County Agricultural Commissioner has advised on similar measures in the past, and he is available as a resource to the City and the applicant if a similar approach at this site is desirable.

Loss of Swainson’s hawk foraging habitat

36-7

The DEIR concludes that the MRIC and the Mace Triangle projects will result in the loss of Swainson’s hawk foraging habitat (Impact 4.4-5; page 4.4-63). Mitigation measures 4.4-5(b) and 4.4-5(c) require the permanent protection of an “equivalent amount” of acres of hawk foraging habitat. The use of “equivalent amount” could lead to ambiguity at the time of mitigation implementation. The County recommends that the EIR specify the actual acreage and mitigation ratio applicable to the loss of foraging habitat, normally 1:1, and the addition of language to ensure that the conservation land is suitable foraging habitat.

In addition, the County recommends that language be added to ensure that this mitigation is not “stacked” with agricultural land mitigation. A foraging habitat conservation easement will typically place certain crop restrictions on the land to ensure foraging values are maintained. As such, a foraging habitat easement could reduce the agricultural values of land and therefore mitigation for these impacts should be treated separately.

Increased Traffic Impacts Due to the Potential Closure of CR32A

36-8

The DEIR notes the ongoing discussion with Union Pacific Railroad (UPRR) regarding the potential closure of CR32A due to grade crossing safety concerns (Impact 4.12-2(d); page 4.14-29). The impacts of closure and the feasibility of applying the mitigation measures detailed in the EIR are a concern for the County. As such, it is important the County and the City continue our ongoing discussion with UPRR and seek a feasible solution to safety concerns at the CR32A grade crossing.

**Letter 36
Cont'd**

Mixed-Use Alternative

36-9

The DEIR assumes that the Mixed-Use Alternative “would provide 750 to 850 housing units intended for employees of the innovation center” (page 8-140). While the intent of the 750 to 850 housing units may be for innovation center employees, in actuality it would be difficult to restrict those units for innovation center employees. The DEIR employs the assumption that approximately 20% of innovation center employees would live in the proposed on-site housing, which would subsequently reduce the vehicle miles traveled and related environmental impacts generated by the Project, thus making the Mixed-Use Alternative the environmentally superior alternative. The County seeks greater clarity as to the measures the applicant or City would take to restrict the housing units for innovation center employees or otherwise achieve the necessary percentage of innovation center employees living on-site to validate the assumptions underpinning the Mixed-Use Alternative.

36-10

The County is confident that through our strong partnership with the City these issues can be resolved and looks forward to working with the City on this endeavor. As this process continues, it is important that the County and the City continue our dialogue and work collectively to ensure the annexation required for the Project provides sufficient and equitable revenue to the County and City of Davis to address the increased need for public services the proposed Project will generate.

Sincerely,



Patrick S. Blacklock
Yolo County Administrator

**Letter 36
Cont'd**

Annexation Policy Framework

Purpose and Objective

The annexation of land to a city—and in particular, the development and related activities that follow—can impact the County in a number of ways. The purpose of this document is to identify appropriate issues to consider in assessing the potential impacts of an annexation upon the County. While each proposed annexation will have to be evaluated individually, this document provides a good starting place for identifying issues that require consideration and, if appropriate, resolution through one or more of the following mechanisms:

- Tax-sharing Agreement
- Development Impact Fees
- Development Agreement
- CEQA Mitigation Measures
- Joint Planning/Environmental Review MOU
- Community Facilities District

Within the Land Use, Fiscal, and Infrastructure sections that follow, each category of potential impacts briefly references the mechanism(s) that may be best suited to implement measures that reduce or eliminate adverse effects on the County. The use of a Development Agreement to secure public benefits (net gains) should also be considered in connection with individual annexation proposals. Tax-sharing agreements can also be an effective mechanism for non-traditional allocations of property and sales tax revenues in a manner that enables counties to share in the fiscal benefits of development that follows annexations.

Land Use Impacts

Land use impacts vary greatly from project to project and necessarily require individualized analysis. This will typically happen through the environmental review process under the California Environmental Quality Act. Some of the more common issues to anticipate include the following:

1. Visual Impacts/Aesthetics.
 - Signage, particularly sign height and illumination
 - Architectural and landscape themes that complement the region's agricultural heritage
 - Compatibility with surrounding neighborhoods

Mechanisms: Development Agreement, CEQA Mitigation Measures.

2. Agricultural Resources.
 - County land use policy (including General Plan/Zoning) considerations, including but not limited to foregone development opportunities
 - Project density/intensity
 - Loss of farmland and mitigation on like/better soils (preferably, 2:1 without stacking), within Woodland/Davis "greenbelt" or other strategic areas if feasible

Letter 36
Cont'd

- Appropriate buffers within the project site to minimize impacts on nearby farming operations
- Fencing or other measures to reduce trespassing and vandalism on adjacent farmland
- Proximity of proposed agricultural mitigation to existing conserved lands and the potential for “islands” of agriculture due to development patterns
- Agricultural sustainability/viability, particularly due to development-related impacts, and potential tie-in to Agricultural Economic Development Fund

Mechanisms: Development Agreement, CEQA Mitigation Measures, Joint Planning MOU

3. Growth Inducement.

- Potential for new infrastructure to ease the path for additional development, potential tie-in to countywide Capital Improvement Plan
- Effect on regional jobs/housing balance

Mechanisms: Development Agreement, Community Facilities District

4. Air Quality/Odors.

- Emissions from onsite uses, including industrial facilities and gas stations
- Odor impacts

Mechanisms: CEQA Mitigation Measures

5. Transportation/Traffic.

- Measures to reduce vehicle miles traveled and promote active transportation, including bus stops, bicycle paths, and ride-sharing programs, potential to tie-in to bicycle plan
- Construction of all infrastructure necessary to serve project and mitigate its impacts on existing facilities, potentially including road widening, turn lands, signals and signage, and (for major projects) freeway on-ramps, ingress and egress
- Ongoing road maintenance issues, including increased wear and tear
- Mitigation for short-term construction impacts

Mechanisms: Development Agreement, CEQA Mitigation, Joint Planning MOU, Community Facilities District

6. Climate Change/Greenhouse Gases.

- Energy efficient building design features, onsite solar, and public transit facilities are among the methods frequency used to address GHG emissions
- Consideration of relevant provisions of the County Climate Action Plan including EV charging stations (will vary by development)

Mechanisms: Development Agreement, Joint Planning MOU

7. Hydrology/Water Quality.

- Floodplain issues, including displacement of floodwaters and related regional/system effects (may be obviated by onsite detention or retention facilities)

**Letter 36
Cont'd**

Mechanisms: CEQA Mitigation Measures

8. Biological Resources.
- Swainson's hawk mitigation (without easement stacking)
 - Coordination with Habitat JPA on biological resources assessment and, as appropriate, mitigation of any impacts

Mechanisms: CEQA Mitigation Measures

9. Urban Decay
- Effect on existing shopping centers or other facilities that may be affected by a project
 - Ability to address through infill rather than "greenfield" development

Mechanisms: Joint Planning MOU

Fiscal Impacts

Fiscal impacts include the revenue issues typically addressed in a tax-sharing agreement, and will also frequently include both direct and indirect impacts associated with the increased use of County facilities and services. Affected County facilities and services will commonly include including probation, law enforcement, health services, public works, solid waste (landfill), parks, and social services. County infrastructure (e.g., roads, bridges) is discussed separately below. Where practical, contributions to the Yolo County Agricultural Economic Development Fund should also be considered.

Mechanisms: Tax-sharing Agreement, Development Impact Fees, Development Agreement, Community Facilities District

Infrastructure Impacts

Effects on County infrastructure can be direct (e.g., road relocation) and indirect (e.g., bridge reconstruction to accommodate increased traffic). The extension of city utility services, such as water and sewer, also presents unique issues and opportunities, as annexations and related development can reduce the fiscal and other barriers to providing such services to existing portions of the unincorporated area.

Many such impacts will be identified and addressed—to varying degrees—through the environmental review process. However, conventional tools such as "fair share" contributions to new infrastructure are frequently inadequate to fully address effects on County facilities. Alternative approaches, including but not limited to Development Agreements as a means of securing dedicated funding for such improvements and/or implementation of the countywide Capital Improvement Plan, may be appropriate in some cases.

Mechanisms: Tax-sharing Agreement, Development Impact Fees (as CEQA Mitigation Measures or otherwise), Development Agreement, Community Facilities District

LETTER 36: PATRICK S. BLACKLOCK, COUNTY OF YOLO

Response to Comment 36-1

Thank you for submitting comments on the MRIC Draft EIR.

Response to Comment 36-2

It appears the County approved a significant update to their agricultural mitigation ordinance approximately a week before the Draft EIR went to print. The revision below reflects the County's updated Agricultural Conservation and Mitigation Program. For clarification purposes, pages 4.2-23 and 4.2-24 of Chapter 4.2, Agriculture and Forestry Resources, are hereby revised as follows:

Section 8-2.404.c Mitigation Requirements

1. ~~Agricultural mitigation shall be required for conversion or change from agricultural use to an urban use prior to, or concurrent with, approval of a zone change from agricultural to urban zoning, permit, or other discretionary or ministerial approval by the County, or as allowed by subsection (3), below. A minimum of one (1) acre of agricultural land shall be preserved for each acre of agricultural land changed to an urban use or zoning classification (1:1 ratio). Application for a zone change, permit, or other discretionary or ministerial approval shall include provisions for agricultural mitigation land. The following uses shall be exempt from this requirement: affordable housing projects, where a majority of the units are affordable to very low or low income households, as defined in Title 8, Chapter 8 of the Yolo County Code (Inclusionary Housing Requirements); public uses such as parks, schools, and cultural institutions. Finally, also exempt are projects involving the conversion of land to urban use to the extent that agricultural mitigation was provided prior to the effective date of the ordinance that revised this subsection (a) to require mitigation for conversions to urban uses.~~
2. ~~Agricultural mitigation requirements shall be satisfied as follows:~~
 - i. ~~If the area to be converted is five (5) acres or more in size, subject to the exception in (ii), below, by granting, in perpetuity, a farmland conservation easement, a farmland deed restriction, or other farmland conservation mechanism to, or for the benefit of, the County and/or other qualifying entity approved by the County; and, the payment of fees sufficient to compensate for all administrative costs incurred by the County or easement holder inclusive of funds for the establishment of an endowment to provide for monitoring, enforcement, and all other services necessary to ensure that the conservation purposes of the easement or other restriction are maintained in perpetuity; or~~
 - ii. ~~If the area to be converted is a small project less than five (5) acres in size, by granting a farmland conservation easement as described in subsection (i), above, or payment of the in-lieu fee~~

~~established by the County to purchase a farmland conservation easement, farmland deed restriction, or other farmland conservation mechanism consistent with the provisions of this section; and the payment of fees in an amount established by the County to compensate for all administrative costs incurred by the County inclusive of endowment funds for the purposes set forth in subsection (i), above. The in lieu fee, paid to the County, shall be used for agricultural mitigation purposes only (i.e. purchases of conservation easements and related transaction and administrative costs). If Yolo County or a qualifying entity establishes a farmland mitigation bank, farmland mitigation may be satisfied by the purchase of credits from the mitigation bank equivalent to the amount of the required in lieu fees. The farmland mitigation bank must be approved by the Board of Supervisors to satisfy farmland mitigation requirements.~~

- ~~3. Agricultural mitigation (payment of an in lieu fee or purchase of a conservation easement) shall be completed as a condition of approval prior to the acceptance of a final parcel or subdivision map, or prior to the issuance of any building permit or other final approval for development projects that do not involve a map.~~

~~Except as provided in subsection (d)(2) below, relating to adjustment factors, for projects that convert prime farmland, a minimum of three (3) acres of agricultural land shall be preserved in the locations specified in subsection (d)(1) for each acre of agricultural land changed to a predominantly non-agricultural use or zoning classification (3:1 ratio). For projects that convert non-prime farmland, a minimum of two (2) acres of agricultural land shall be preserved in the locations specified in subsection (d)(1) for each acre of land changed to a predominantly non-agricultural use or zoning classification (2:1) ratio. Projects that convert a mix of prime and non-prime lands shall mitigate at a blended ratio that reflects for the percentage mix of converted prime and non-prime lands within project site boundaries.~~

- ~~2. The following uses and activities shall be exempt from, and are not covered by, the Agricultural Conservation and Mitigation Program:~~

~~(i) Affordable housing projects, where a majority of the units are affordable to very low or low income households, as defined in Title 8, Chapter 8 of the Yolo County Code (Inclusionary Housing Requirements);~~

~~(ii) Public uses such as parks, schools, cultural institutions, and other public agency facilities and infrastructure that do not generate revenue. The applicability of this exemption to public facilities and infrastructure that generate revenue shall be evaluated by the approving authority on a case-by-case basis. The approving authority may partly or entirely deny the exemption if the approving authority determines the additional cost of complying with this program does not jeopardize project feasibility and no other circumstances warrant application of the exemption;~~

~~(iii) Gravel mining projects regulated under Title 10, Chapters 3-5 of the Yolo County Code, pending completion of a comprehensive~~

- update of the gravel mining program (anticipated in January 2017); and
- (iv) Projects covered by an approved specific plan which includes an agricultural mitigation program.
3. The following uses and activities shall provide mitigation at a 1:1 ratio in compliance with all other requirements of this Agricultural Conservation and Mitigation Program:
- (i) If not covered by the exemption for approved specific plans, the pending application for the Dunnigan Specific Plan, if deemed complete within (1) two (2) years of the effective date of the ordinance adding this subsection, and (2) not later substantially revised, as determined by the Board of Supervisors in its reasonable discretion;
- (ii) Applications deemed complete prior to the effective date of the ordinance modifying the mitigation ratio.

In addition, page 4.2-23 of Chapter 4.2, Agriculture and Forestry Resources, is hereby revised as follows for clarification:

It should be noted that the City of Davis' agricultural mitigation requirements ~~would satisfy~~ differ from Yolo County's new 34:1 (minimum) agricultural land mitigation ratio requirements for conversion of Prime Farmland and the County's 2:1 agricultural land mitigation ratio requirement for conversion of non-prime farmland, which pertain broadly to conversion or change from agricultural use to an urban use prior to, or concurrent with, approval of a zone change from agricultural to urban zoning, permit, or other discretionary or ministerial approval by the County.

~~Similarly, the~~ City's agricultural mitigation requirements ~~would satisfy~~ exceed Yolo County LAFCo's 1:1 (minimum) agricultural land mitigation ratio requirements, which pertain to Prime Agricultural Land, defined by Yolo County LAFCo as land which meets any of five different criteria, the two most pertinent of which are: ...

Response to Comment 36-3

The commenter is correct that the agricultural land immediately adjacent to the project's northwestern boundary is not protected through a conservation easement. This clarification has been incorporated on page 4.2-30 of Section 4.2, Agriculture and Forestry Resources, as shown below. The commenter suggests that this land should be targeted as high priority for agricultural mitigation. In addition, the commenter suggests that land within a defined geographic area (e.g., one half mile from the site) should receive priority. Because the project is proposed to be annexed into and would be developed within the City of Davis, the County's new agricultural mitigation requirements would not apply. However, the suggestions are generally consistent with the requirements of the City's agricultural mitigation requirements (City Municipal Code Section 40A.03, Farmland Preservation).

A 150-foot wide project buffer requirement has been added to the northwestern project boundary. The additional buffer area would provide an additional 2.58 acres to the 20.21 acres of agricultural buffers identified in the Draft EIR for the northern and eastern boundaries.

Page 4.2-30 of Section 4.2, Agriculture and Forestry Resources, is hereby revised as follows:

4.2-3 Result in the loss of forest or agricultural land or conversion of forest or agricultural land to non-forest or non-agricultural use. Based on the analysis below and the lack of feasible mitigation, the impact is *significant and unavoidable*.

MRIC

The City defines “agricultural land” as “those lands in agricultural use,” where “agricultural use” is defined as, “Use of land for the purpose of producing food, fiber, or livestock for commercial purposes.”¹³ Section 40A.03.025 states that, “The city shall require agricultural mitigation as a condition of approval for any development project that would change the general plan designation or zoning from agricultural land to nonagricultural land and for discretionary land use approvals that would change an agricultural use to a nonagricultural use.” Because the 212-acre MRIC Site is in agricultural use, as defined by City Code, agricultural mitigation is required for the proposed development of the MRIC. It should be noted that the proposed redesignation of the MRIC site from the City’s Agricultural land use designation to an urban land use designation also requires agricultural land mitigation pursuant to the City’s Code.

The City’s 2:1 agricultural mitigation requirement would result in the need for the MRIC applicant to set aside approximately ~~379~~³⁸⁴ acres (212 acres less the required ~~22.720~~¹²-acre agricultural buffer = ~~189.319~~^{1.9}-ac x 2:1).¹⁴ In addition, the applicant will be required to mitigate for a yet undetermined amount of off-site agricultural acreage that would be impacted during construction of the off-site sewer pipe. The off-site impact acreage cannot be definitively calculated at this time because the location of the pipe has not been engineered. It is anticipated, however, based upon preliminary calculations, that the off-site sewer line could impact a maximum of up to approximately 11 acres of agricultural land, depending upon the final alignment selected.

Pages 4.2-33 through 4.2-34 of Section 4.2, Agriculture and Forestry Resources, are hereby revised as follows:

4.2-4 Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use. Based on the

¹³ See Section 40A.03.020, Definitions, of the Davis Zoning Code.

¹⁴ Section 40A.03.035 of Davis’ Zoning Code specifies that the land included within the agricultural buffer required by Section 40A.01.050(c) shall not be included in the calculation for the purposes of determining the amount of land that is required for mitigation.

analysis below, and with implementation of mitigation, the impact is considered *significant and unavoidable*.

MRIC

As noted previously, agricultural operations exist to the north, ~~and east, and~~ northwest of the MRIC site. These agricultural operations to the north and east will continue into perpetuity given that the agricultural lands surrounding the northern and eastern sides of the MRIC site are part of the ~~Mace 391~~ 360-acre farmland conservation easement. The section that follows will assess the potential for the development of the MRIC to hinder the adjacent agricultural operations.

MRIC Agricultural Buffer

Pursuant to Section 40A.01.050 of the City's Municipal Code, the MRIC will include a minimum 150-foot wide agricultural buffer along its northern, northwestern, and eastern boundaries. The agricultural buffer for the MRIC would be comprised of two components: a 50-foot-wide agricultural transition area located contiguous to a 100-foot-wide agricultural buffer that would be contiguous to the adjacent ~~Mace 391~~ 360-acre agricultural easement areas and APN 071-130-003 at the site's northwestern boundary.

Proposed 100-foot portion of MRIC Site Agricultural Buffer

As indicated in Figure 3-18 of the EIR Project Description, the applicant intends for the project's agricultural buffer to serve drainage and water quality functions. Per 40A.01.050(c), drainage channels, storm retention ponds, and drainage swales are all permissible uses within the first 100 feet of the agricultural buffer. As such, utilizing the first 100 feet of the MRIC agricultural buffer for drainage purposes will not conflict with the City's agricultural buffer/right-to-farm ordinance.

Proposed 50-foot portion of MRIC Site Agricultural Buffer

As indicated in Figure 3-14 of the EIR Project Description, the 50-foot transitional portion of the MRIC's agricultural buffer is intended to include a biking and walking trail. Such a public amenity is permissible under section 40A.01.050(d) of the Code.

The above revision shall be reflected globally within the Draft EIR.

Page 4.2-36, Mitigation Measure 4.2-4, is hereby revised as follows:

MRIC

- 4.2-4 *Prior to recording the first final map, the applicant shall attempt to purchase a "no aerial spray" easement from the adjacent property owner. It is anticipated that the easement will need to be 400 feet wide*

along the MRIC Site's northwestern, northern and eastern boundaries. The applicant shall submit the written proof of the easement to the Department of Community Development and Sustainability.

Page 4.2-31 is hereby revised as follows:

Because the northern and eastern boundaries of the MRIC site ~~is~~are surrounded by lands within an agricultural conservation easement (see Figure 4.2-1), according to Section 40A.03.030(e) of the City's Municipal Code, the MRIC Project agricultural mitigation requirements are exempt from the City's adjacent land mitigation requirement for these portions of the project site.^{15,16} As a result, the MRIC will be subject to the City's remainder mitigation land requirements. Section 40A.03.030, Lands eligible for remainder land mitigation, include provisions regarding the location of the agricultural mitigation land and factors which would be considered by City Council in order to accept or reject the proposed mitigation land. The adjacent agricultural lands to the northwest are not permanently preserved under an agricultural easement. Therefore, this portion of the project is subject to the adjacent land mitigation requirement, and can be considered as a priority area to help meet the project's off-site mitigation requirements.

Response to Comment 36-4

The commenter suggests that the City require mitigation above and beyond the LAFCo requirement by increasing the LAFCo minimum score requirement from “no more than 10 percent below that of the project site” to “equal or above that of project site”. This suggestion is generally consistent with the requirement of the City code for “remainder land mitigation” which is that agriculture mitigation land not required to be located at the non-urbanized perimeter of the project have comparable or similar soil quality, type, and capability (Sections 40A.03.040(a) and 40A.03.0050(A)(2 and 3)). The City will consider the suggestions during the project review process and as a part of subsequent assessments of proposed agricultural mitigation.

The requirement for conformity with the Yolo Habitat Conservancy agricultural easement template would only apply after approval of an HCP/NCCP including such a template.

Response to Comment 36-5

The commenter is correct that the City's 25 acres is not encumbered by a conservation easement. Figure 4.2-1 on page 4.2-7 of Section 4.2, Agriculture and Forestry Resources, incorrectly indicates that the City's 25 acre parcel in the northwest corner of the project site is a part of the conservation easement for the property immediately north of the project site. The figure has been corrected. Please see Response to Comment 33-23 regarding modification of Figure 4.2-1. Please also see revised Figure 4.2-1 in Chapter 2, Revisions to the Draft EIR Text, in the Final EIR.

¹⁵ City of Davis. Staff Report: “*Open Space Acquisition – Leland Ranch resale and conservation easement.*” December 10, 2013.

¹⁶ City of Davis. *Davis Municipal Code, Chapter 40A, Right to Farm and Farmland Preservation.* Section 40A.03.030(e). April 2014.

Response to Comment 36-6

The commenter suggests that Mitigation Measure 4.2-4 be modified to require acquisition of a no-spray easement from the adjoining agricultural property owner. Please see Responses to Comments 15-4 and 36-3 regarding the sufficiency of the project's agricultural buffer.

The proposed conceptual design of the MRIC agricultural buffer includes trees and hedgerows (see Figure 3-8 on page 3-24, Table 3-3 on page 3-31, and Figure 3-13 on page 3-33 of Chapter 3, Project Description).

Response to Comment 36-7

In response to the comment, Mitigation Measures 4.4-5(b) and 4.4-5(c) have been revised for clarification purposes, as follows:

4.4-5(b) *Foraging Habitat: The project applicant shall permanently protect ~~an~~ equivalent amount of acres of Swainson's hawk foraging habitat converted by the proposed project at a 1:1 ratio by either (1) purchasing a DFW-approved conservation easement of like acreage or (2) paying the requisite mitigation fee to the Yolo Habitat JPA pursuant to the Swainson's Hawk Interim Mitigation Fee Program or purchasing mitigation credits from an approved mitigation credit holder. Purchase of a conservation easement of like acreage or payment of the mitigation fee shall be made to the Yolo Habitat JPA and shall be confirmed by the City prior to the initiation of ground disturbing activities.*

Mace Triangle

4.4-5(c) *Foraging Habitat: The project applicant shall permanently protect ~~an~~ equivalent amount of acres of Swainson's hawk foraging habitat converted by the proposed project at a 1:1 ratio by either (1) purchasing a DFW-approved conservation easement of like acreage or (2) paying the requisite mitigation fee to the Yolo Habitat JPA pursuant to the Swainson's Hawk Interim Mitigation Fee Program or purchasing mitigation credits from an approved mitigation credit holder. Purchase of a conservation easement of like acreage or payment of the mitigation fee shall be made to the Yolo Habitat JPA and shall be confirmed by the City prior to the initiation of ground disturbing activities.*

Regarding the commenter's request to prohibit "stacking" of Swainson's hawk foraging habitat with agricultural land mitigation, the City of Davis does not have a policy prohibiting this approach. However, the comment will be considered by the decision-makers during their deliberations on the project.

Response to Comment 36-8

The City understands and shares the County's concerns about the possible closure of CR 32A. Please see Master Response #1, Union Pacific Railroad (UPRR) and County Road (CR) 32A closure.

Response to Comment 36-9

The Mixed-Use Alternative would include development of approximately 34 acres of the 212-acre site for 850 residential units and associated setbacks, courtyards, and residential parking. This alternative assumes that 100% of the units would be occupied by at least one employee of the MRIC. Please see Master Response #3, Mixed-Use Alternative.

Response to Comment 36-10

Thank you. The comment regarding the importance of the tax sharing negotiations is noted for the record. The attached County annexation policy framework is also noted for the record.

Letter 37

UNION PACIFIC RAILROAD COMPANY
13181 Crossroads Parkway North, Ste. 500
City of Industry, CA 91746

Melissa B. Hagan National Environmental Counsel &
Senior Counsel-Environmental Law

November 12, 2015

Via CMRRR 7014 2120 0001 0438 4012 and Electronic Mail

MRIC Project Planner
City of Davis Department of Community Development and Sustainability
23 Russell Boulevard, Suite 2
Davis, CA 95616
maceranchinetr@cityofdavis.org

Re: Union Pacific Railroad Company's Comments to Mace Ranch Innovation Center (MRIC) Project Draft Environmental Impact Report (EIR) (SCH # 2014112012)

Dear MRIC Project Planner:

Union Pacific Railroad Company ("Union Pacific") appreciates this opportunity to comment on the August 2015 Mace Ranch Innovation Center ("MRIC") Project Draft Environmental Impact Report ("Draft EIR") prepared by the City of Davis ("City").

37-1

Union Pacific operates a railroad line that runs east-west through the City. The railroad tracks that border the edge of the MRIC Project site are grade separated with Mace Boulevard. In addition, there is an at-grade crossing within the study area at County Road 32A ("CR 32A") and County Road 105 ("CR 105"). Union Pacific has a particular interest in the transportation impacts and mitigation measures identified in the Draft EIR specific to the existing CR 32A/105 railroad crossing, since these would impact rail operations, public safety and traffic functionality.

For the reasons discussed below, Union Pacific supports the implementation of Mitigation Measure 4.14-2(d)'s "Option 3" capacity improvements to the County Road 32 interchange, including providing a grade separation of County Road 32A and the Union Pacific rail tracks. However, the Draft EIR's proposed near-term intersection reconfiguration is both ineffective and infeasible, and the grade separation must be completed prior to construction on the MRIC Project, unless the crossing is closed first.

37-2

The California Public Utilities Commission Staff Recommended that the Rail Crossing at CR 32A/105 Be Closed and Grade Separation Provided to Further Reduce Grade Crossing Incidents and Promote Public Safety Goals. As such, the Closure of the Existing CR 32A/105 At-Grade Railroad Crossing is Reasonably Foreseeable and Imminent and Should Be Analyzed in the Draft EIR Accordingly.

As explained in the Draft EIR, the Union Pacific-operated railroad track bordering the project site is used by an average of 42 trains per day (Draft EIR, page 4.14-10). The geometry of the CR 32A/105 crossing, and external factors related to motorist behavior and high traffic and train

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**Letter 37
Cont'd**

Page 2 of 4
Union Pacific Railroad Company Comments

**37-2
Cont'd**

counts, make road-track interactions at this intersection more challenging to manage using traditional engineering measures than is the case at other crossings.

Over the past several years, Union Pacific has pursued safety efforts to reduce grade crossing incidents across its system. To this end, Union Pacific has been in discussions with the California Public Utilities Commission (“CPUC”)¹ and Yolo County (“County”) representatives for over a year regarding the CR 32A/105 crossing and future safety strategies. Both Union Pacific and CPUC staff have noted a history of accidents at this location. Following its analysis, the CPUC staff publicly recommended the closure of the CR 32A/105 crossing and construction of a grade separation at this location. David Stewart, a CPUC Utilities Engineer, also recently confirmed that the CPUC believes the MRIC Project would “negatively impact” the CR 32A/105 grade crossing and that it should be closed or grade separated since “the geometry of the crossing makes the road-track interaction difficult to protect with engineering measures.”²

Under the California Environmental Quality Act (“CEQA”)³, project review must encompass all components of the activity being approved, including reasonably foreseeable consequences of the proposed approval and components that are an integral part of the project. CEQA Guidelines § 15378⁴; *see, e.g., Bozung v. Local Agency Formation Comm’n*, 13 Cal. 3d 263, 279–81, 289 (1975); *Laurel Heights Improvement Ass’n v. Regents of the Univ. of Cal.*, 47 Cal. 3d 376, 395–398 (1988) (*Laurel Heights I*); *No Oil, Inc. v. City of Los Angeles*, 196 Cal. App. 3d 223, 237 (1987).

In the Draft EIR, the City correctly acknowledges that Union Pacific “has discussed the potential closure” of the CR 32A crossing due to safety concerns, and as such certain mitigations may not be feasible (Draft EIR, page 4.14-29). However, this fact is only cursorily mentioned and the Draft EIR does not go far enough in its analysis. Given the CPUC staff recommendation to close the crossing and provide grade separation, and the proposed project’s anticipated circulation needs and increased traffic generation, the impending closure of the grade crossing is more than merely speculative and should be recognized as such in the Draft EIR.

Should the City Decide to Implement Mitigation Measure MM 4.14-2(d) (i.e., Construction of Capacity Improvements at the CR 32 Interchange), the Proposed Near-Term Intersection Reconfiguration is Neither Effective nor Feasible, and Grade Separation Must be Required Prior to Project Construction.

37-3

Agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen the significant environmental effects of such projects. Cal. Pub. Res. Code §§ 21002, 21081; CEQA Guidelines §§ 15091-

¹ The CPUC retains authority over rail crossings in California, including the place and manner in which a road may cross tracks. Cal. Pub. Util. Code §§ 1201, 1202.

² Email correspondence from David Stewart, CPUC Utilities Engineer, to Peggy Ygbuhay, UP Manager Special Projects, dated November 12, 2015.

³ Cal. Pub. Res. Code §§ 21000 *et seq.*

⁴ The CEQA Guidelines are codified at California Code of Regulations Title 14 § 15000 *et seq.*

**Letter 37
Cont'd**

Page 3 of 4
Union Pacific Railroad Company Comments

**37-3
Cont'd**

15094. The Draft EIR identifies three potential mitigation options for the MRIC Project's impact to three primary interchange area intersections (Draft EIR, page 4.14-25). Mitigation "Option 3" (MM 4.14-2(d)) requires constructing capacity improvements at the CR 32A interchange to accommodate increased MRIC Project traffic, thereby lessening traffic on the Mace Boulevard interchange.⁵ The improvements include providing a grade separation of CR 32A and the Union Pacific tracks. Union Pacific supports this measure. Prior to this grade separation work, the project mitigation would entail relocating the CR 32A/CR105 intersection 200 feet to the north and installing double gates on the south approach to the crossing.

There are several problems with MM 4.14-2(d) as currently analyzed. First, the Draft EIR's assertion that the near-term relocation of the crossing by 200 feet will make a meaningful difference to "improve safety and traffic functionality at the grade crossing" is erroneous. Union Pacific and the County have discussed crossing relocation options at length for more than a year, and the most realistic and effective option in terms of advancing public safety concerns is to relocate the crossing more than two miles from the MRIC Project site. Second, given the CPUC's public recommendation to close the CR 32A/105 crossing, and safety considerations with its current operation, implementing this near-term reconfiguration mitigation prior to the CPUC closing of the crossing is unrealistic and ineffective (and therefore an infeasible mitigation measure). Lastly, the Draft EIR recognizes that grade separation must be constructed in order to achieve the "intended benefits" of the mitigation (Draft EIR, page 4.14-29).

Although Union Pacific agrees that grade separation is required unless the crossing is closed, the Draft EIR should clarify that unless the grade crossing is closed, the grade separation must be completed prior to construction of the MRIC Project. This clarification is especially important since MRIC Phase 1 is slated for the southeastern portion of the site (Draft EIR, page 3-43) and construction activities will most likely require crossing over the railroad tracks.

For all of the reasons stated above, Union Pacific supports the implementation of the MRIC Project's Mitigation Measure 4.14-2(d) capacity improvements to the County Road 32 interchange, so long as the identified changes and clarifications are incorporated in the Final EIR.

⁵ The interchange improvements also require Caltrans and County review and approval.

**Letter 37
Cont'd**

Page 4 of 4
Union Pacific Railroad Company Comments

37-4

Thank you for the opportunity to express our views. Please forward these comments to the decision-making bodies of both the County and City before any action is taken by those respective bodies with respect to MRIC Project.

Regards,

UNION PACIFIC RAILROAD COMPANY



Melissa B. Hagan

cc: David Pickett, Union Pacific Railroad Company
Michael Steel, Morrison & Foerster

LETTER 37: MELISSA B. HAGAN, UNION PACIFIC RAILROAD

Response to Comment 37-1

Thank you for your comment on the MRIC Draft EIR. Please refer to Master Response #1, Union Pacific Railroad CR 32A Closure.

The commenter's support for Mitigation Measure 4.14-2(d) Option 3 including a grade-separation at CR 32A and the railroad tracks is noted. It is noted that this alternative would shift trips from the Mace Boulevard interchange onto CR 32A thereby placing more traffic along the route where the railroad crossing is located.

The Draft EIR analysis acknowledges on page 4.14-2 (first paragraph under bulleted paragraph) that if the crossing is closed in the future a grade-separated crossing would be needed to achieve the intended benefits of the mitigation. Similarly on page 4.14-46, 2nd bullet, the text acknowledges that if the crossing is closed the measure (relocated crossing for westbound cyclists and advanced warning devices) would not be required.

Response to Comment 37-2

The commenter is encouraged to submit the cited correspondence in Footnote 2 on page 2 of the comment letter. However, while this information is helpful, discussions between staff members does not raise an action to a level of being reasonably foreseeable or imminent.

The comment seems to suggest that that MRIC Draft EIR has an obligation to analyze the impacts of a proposed closure of the railroad crossing. The City does not agree. The MRIC does not propose to close the crossing. The subject Draft EIR does properly disclose the implications of a crossing on the proposed project mitigation measures. Should an application for closure be filed at some point in the future, the applicant and lead agency for that project will have the responsibility to undertake an appropriate public review process and environmental analysis of the impacts of that proposal.

Response to Comment 37-3

The UPR has made no application to the California Public Utilities Commission (CPUC) to close or eliminate the crossing to date, nor has the CPUC taken any known actions in this regard. The two identified near-term improvements may not be possible without the support of the CPUC and UPRR.

Response to Comment 37-4

Thank you for your comments. The commenter is encouraged to share their comments with the County directly. The comments will be considered by the Planning Commission and City Council as a part of deliberations on the project.

Letter 38

From: Huber, Anne [<mailto:Anne.Huber@icfi.com>]
Sent: Thursday, November 12, 2015 9:28 AM
To: Mace Ranch Innovation Center <maceranchinctr@cityofdavis.org>
Subject: Mace Ranch Innovation Center - comments on impacts to bicyclists

38-1

I am writing to express concern regarding the impacts that the innovation center would have on people who commute by bicycle between Davis and Sacramento. Road 32A is basically the only way for people to bicycle between these two cities because Road 32B is too dangerous. The location of the proposed Mace Ranch innovation center will cause substantial additional traffic along Road 32A and Mace Boulevard, especially during the commuter hours when people are bicycling to and from work.

38-2

Some of the proposed traffic mitigation might help people who drive cars to and from the site, but at the detriment to bicyclists. For example, widening the traffic lane on Road 32A and removing the island at the Mace Boulevard-2nd Street intersection will make conditions for bicyclists more dangerous.

Appropriate mitigation for bicyclists should include improved access to the old Highway 40 bike path that parallels Interstate 80 and improved safety for bicyclists along Road 32A. Widening the Road 32A bike lane from 4 to 6 feet would be helpful, but insufficient and possibly impossible due to right-of-way issues.

Sincerely,

Anne Huber

LETTER 38: ANNE HUBER, INDIVIDUAL

Response to Comment 38-1

Thank you for submitting comments on the MRIC Draft EIR. Your concerns about the project are noted for the record. Please see Master Response #2, Bicycle Connection along County Road 32A.

Response to Comment 38-2

Please see Master Response #2, Bicycle Connection along County Road 32A, as well as Responses to Comments 5-1, 5-6, and 18-2.

Letter 39

From: Johnston, John [<mailto:johnston@saclink.csus.edu>]
Sent: Thursday, November 12, 2015 5:03 PM
To: Mace Ranch Innovation Center <maceranchinctr@cityofdavis.org>
Subject: MRIC DEIR comments

Comment on MRIC DEIR

39-1

1. This comment refers to what appear to be a mistake in Table 4.12-12. In the table, the housing demand is estimated by dividing the number of employees (5882) by the number of employees per household (1.62) to produce the estimated housing demand (3631, subsequently inflated by a vacancy factor). The claim is that the employees at the project would produce a housing demand of 3763 units. This would be true if the 1.62 employees per household all worked at MRIC. What is more likely the case, however, is that one person will work at MRIC and the other 0.62 household members will work elsewhere. Thus, a better estimate of the housing demand is 5882 units. This numerical change propagates throughout the subsequent calculations, resulting in an estimated number of housing units demanded by Innovation Park employees inside of Davis of 3326 (rather than 2053) and is almost 1100 units more than the total estimated City of Davis housing development potential, even assuming all that potential is consumed by MRIC employees only. The DEIR should be reviewed and revised as needed to reflect the higher housing demand.

39-2

2. Also on Table 4.12-12, it is assumed that the estimated portion of employees seeking housing in the City of Davis will be 54.6%, based on historical records. What does not appear to be discussed is that to reduce GHG emissions from transportation sources, the city may elect to adopt policies to encourage a greater portion of employees to locate in the city. The environmental trade-offs between increased housing to reduce commuting vs. status quo housing policies and increased commuter traffic deserve some discussion.

John Johnston
2839 Grinnel Dr.
Davis 95618

LETTER 39: JOHN JOHNSTON, INDIVIDUAL

Response to Comment 39-1

Thank you for submitting comments on the MRIC Draft EIR. The EIR assumes 1.62 employees per household when calculating the new housing demand that would be associated with MRIC employment. The 1.62 employees per household rate represents the existing average number of employees in Davis households that have at least one employed member. The commenter is partially correct in that some MRIC employees will share households with members who are employed at locations outside of the MRIC; however, some of the MRIC employees will live in households that are already located in Davis and, thus, will not create new local housing demand. Use of the 1.62 rate accounts for both of these situations. The alternative calculations that the commenter proposes do not allow for the fact that some MRIC employees will come from existing Davis households and, thus, the calculations overstate the likely housing demand that the MRIC project would create.

Response to Comment 39-2

The commenter mentions the tension and trade-offs between increased housing, efforts to reduce commuting, and desire to reduce greenhouse gas (GHG) emissions. The aforementioned issues have been the subject of community discussion over the years, most notably with recent updates to the General Plan Housing Element, General Plan Transportation and Circulation Element, and adoption of the City's Climate Action and Adaptation Plan (CAAP). Additional discussions of these issues will be an important component of the deliberations regarding the merits of the proposed project.