

Open Space and Habitat Commission Special Meeting Minutes
Thursday, April 23, 2020
Remote Audio and Video Meeting Participation, 6:30 p.m.

Commissioners Present: Garrett Allen, Patrick Huber (Vice Chair), Joy Klineberg, Roberta Millstein (Chair), Carrie Shaw, Marc Vayssieres

Vacant Positions: Two (Regular and Alternate)

Commissioners Absent: None

Assigned Staff: Tracie Reynolds, Manager, Open Space Program (Present)

Council Liaison: Brett Lee (Regular) (Present), Lucas Frerichs (Alternate)

1. Call to Order & Roll Call

Commissioner Millstein opened the meeting after a quorum was achieved and called roll call.

2. Approval of Agenda

On a motion by Commissioner Huber, seconded by Commissioner Shaw, the Commission voted 6-0-0-0 to approve the April 2020 special meeting agenda (Ayes – Allen, Huber, Klineberg, Millstein, Shaw, Vayssieres; Noes – None; Absent – None; Abstentions – None).

3. Regular Items

Action Item – Provide Commission comments on the Draft Subsequent Environmental Impact Report (“SEIR”) for the proposed Aggie Research Campus (“ARC”) development

Commissioner Millstein introduced this item and took public comments.

- Larry Guenther recommended that the Mace 25 site be removed from the project description. He said that a site bought with Measure O funds should not be allowed to be part of the project.
- Josh Jones said the environmental impacts to the City’s Howatt-Clayton properties, which the ARC developer proposes to use for storing stormwater runoff, are not studied in the SEIR and they should be. He said the proposed construction near the levee also should be studied.
- Nancy Price said using a property purchased with Measure O funds for a development was a betrayal of the intent of Measure O. She said using part of the Mace 25 property for the project’s ag buffer was a mistake and would erode citizen trust and would have a negative impact on future measures needing voter approval.
- Alan Pryor said that Yolo County recommended in its scoping comments that the project’s ag buffer be a minimum of 300 feet wide on the developer’s land. He said the developer proposes to use the ag buffer for both drainage and burrowing owl habitat, which doesn’t make sense. He said the soil excavation plan for the Howatt-Clayton properties doesn’t make sense. He said the environmental impacts to the City’s Howatt-Clayton properties, which the developer proposes to use as a stormwater detention basin, haven’t been studied and the Commission should require that these impacts be studied.
- Colin Walsh said the ARC SEIR neglected to study the environmental impacts (including to birds and bats) of turning the City’s Howatt-Clayton properties into a stormwater detention basin. He said the ARC SEIR also neglected to study the environmental impacts of bike paths inside the Mace curve. He asked that biological surveys be extended to the west and east and included in the revised SEIR.
- Eileen Samitz said her biggest concern is that not enough biological surveys were done to assess the environmental impacts of the project. She asked the Commission to ask for more surveys and that the surveys consider a wider area. She said the ag buffer should have fewer trees near the proposed burrowing owl habitat

area. She said it was absurd to consider using part of the Mace 25 site for the project and she hoped the Commission would recommend taking the Mace 25 site out of the project.

The Commission then discussed each comment on the ARC SEIR submitted previously by Commissioners. Minor edits were made to several comments. Because it was not an issue related to the SEIR, the Commission agreed to delete one comment (i.e., the comment discussing the land management recommendation of the City's Wildlife Biologist regarding the burrowing owls on the Mace 25 site). One comment was added (i.e., the comment discussing the form of easement required for the project's agricultural mitigation land). One comment was reserved for a separate vote (i.e., the comment discussing whether the project would result in significant and unavoidable impacts to the burrowing owl).

On a motion by Commissioner Huber, seconded by Commissioner Vayssieres, the Commission voted 6-0-0-0 to approve the consolidated comments on the ARC SEIR, as amended (Attachment A) (Ayes – Allen, Huber, Klineberg, Millstein, Shaw, Vayssieres; Noes – None; Absent – None; Abstentions – None).

Commissioner Millstein then proposed a motion to approve the comment that was reserved for a separate vote. Her motion was to recommend that the SEIR consider the loss of burrowing owl habitat in the Davis area and acknowledge that the ARC project would result in significant and unavoidable impacts to the burrowing owl. The motion was not seconded. The comment was therefore deleted from the consolidated comments on the ARC SEIR.

The Commission's final consolidated comments on the ARC SEIR are attached (Attachment A) to these minutes.

Action Item – Provide recommendations to the City Council on the proposed Aggie Research Campus development in general

Commissioner Millstein introduced this item and took public comments.

- Pam Gunnell asked if the City allows the developer to use a portion of the City's Mace 25 land to satisfy the City's ag buffer requirements, what's next? She said allowing that would continually shift the baseline and violate the public trust. She said the developer can alter the project's footprint instead.
- Josh Jones said he was concerned the developer might get to use City land for his project. He said the Commission needed to ask that the City's land be removed from the project. He said the baseline was being eroded and the developer should provide the land. He said City land should not be used for the project.
- Alan Pryor said the development agreement won't get signed until after the Measure R/J vote so the developer is asking us to trust that a City deal will be worked out later. He said we should not allow a "taking" of the Howatt property. He said no City land should be used for the project. He said the developer should pump water off site instead of using the City's Howatt property for a detention basin and put the ag buffer on the project site.
- Colin Walsh asked whether it was legal to use Measure O for an ag buffer. He said the text of Measure O doesn't allow the trading of land for a business park. He said this is both a moral question and a public question. He said the public sees the land bought with Measure O funds as protected. Using that land for something else would be a betrayal of the public trust and a violation of the public trust and violates the intent of Measure O. He urged the Commission to recommend that the Mace 25 property be taken out of the project.
- Marika Pappagianis said she doesn't understand why the developer is being allowed to use a portion of the Mace 25 land purchased with Measure O funds for his project. She said we shouldn't just shrug our shoulders and go with the flow. She said someone should stand up and make the situation better for burrowing owls.
- Eileen Samitz said the community counts on the Commission and community advocates to recommend what's best for the community. She said the City owns the Howatt property because the developer of the Mace Ranch residential project didn't do his flood control correctly. She said the City got sued so the City bought the Howatt property. She asked isn't it ironic that the same developer now wants to use that same land for flood control for

another project? She urged the Commission to strongly advocate for removing the Mace 25 site and the Howatt property from the project. She asked the Commission to step up and advocate for what is best for the community and habitat.

- Larry Guenther said City property should be removed from the project. He said more data was needed to understand the project's environmental impacts, especially the plan to remove earth at the base of the levee which he said seemed like a bad idea. He said the City's Mace 25 land was being traded like a commodity. He said we should slow down. He said rushing a project to the voters is not the best method to get the best project.

The Commission then discussed each comment on the ARC project submitted previously by Commissioners. Commissioner Millstein said the Commission should not support a project that will result in the substantial net loss of a noteworthy combination of open space values, including prime agricultural land, open space on the City's perimeter, biological resources, scenic resources, and open space/habitat opportunities on the Mace 25 and Howatt-Clayton properties. Commissioners Huber and Allen said they might be willing to support the project if the City could negotiate real and significant habitat enhancements on the Mace 25 and Howatt-Clayton properties. Commissioner Millstein said she couldn't endorse a project based on pie-in-the-sky promises. After much discussion, the Commission agreed that it did not support the project as proposed, but would be willing to revisit its decision if the project removed the ag buffer from the Mace 25 property and included a developer-financed habitat enhancement project on the disturbed area of the Howatt property. The Commission also added that these comments were in addition to the recommendations about the ARC project given by the Commission on November 4, 2019. The Commission also reiterated its January 7, 2019 recommendations regarding the future use of the City's Mace 25 parcel. Finally, edits were made to several comments and two comments were added about burrowing owls.

On a motion by Commissioner Allen, seconded by Commissioner Huber, the Commission voted 6-0-0-0 to approve the consolidated comments on the ARC project, as amended (Attachment B) (Ayes – Allen, Huber, Klineberg, Millstein, Shaw, Vayssieres; Noes – None; Absent – None; Abstentions – None).

The Commission's final consolidated comments on the ARC project are attached (Attachment B) to these minutes.

Discussion Item – Receive an update from staff about a possible agricultural conservation easement located less than a mile from the city limits, northeast of the Wildhorse residential development (APN 042-120-022)

Staff updated the Commission on how conservation easement negotiations are going with the property owner of 153 acres of farmland less than a mile from the city limits, northeast of the Wildhorse residential development. Staff said the property owner had increased his offer to about 120 acres for the agricultural conservation easement. Staff said the property owner was not willing to discuss a public access easement at this time. Staff said the property owner had agreed to protect the wildlife corridor along the stormwater conveyance channel. Staff showed the Commission a map of the easement area, which protected the wildlife corridor along the stormwater conveyance channel, and the area outside of the easement. The Commission supported pursuing the agricultural conservation easement as shown on the map discussed at this meeting. There was no public comment on this item.

On a motion by Commissioner Klineberg, seconded by Commissioner Shaw, the Commission voted 6-0-0-0 to recommend that the City pursue the agricultural conservation easement as shown on the map discussed at this meeting (Ayes – Allen, Huber, Klineberg, Millstein, Shaw, Vayssieres; Noes – None; Absent – None; Abstentions – None).

8. Adjourn

The meeting was adjourned at approximately 10:58 p.m.

Attachments:

- Attachment A: Commission consolidated comments – ARC SEIR
- Attachment B: Commission consolidated comments – ARC Project

General Comments

COMMENT

General Comments**Satisfaction of City's ag buffer ordinance**

Issue: The ARC project proposes to use 6.8-acres of the City parcel just to the northwest of the project, often called the "Mace 25," to satisfy the agricultural buffer requirement spelled out in Davis Municipal Code 40A.01.050. This proposal calls for the City to provide a buffer (part of the Mace 25) for its own land (the remainder of the Mace 25). However, it is not clear that this use satisfies the spirit or the letter of the municipal code, which states "all new developments adjacent to designated agricultural, agricultural reserve, agricultural open space, greenbelt/agricultural buffer, Davis greenbelt or environmentally sensitive habitat areas according to the land use and open space element maps shall be required to provide an agricultural buffer/agricultural transition area" [emphasis added], and "the land shall be dedicated to the city," implying that the land for the buffer is not already owned by the City.

Importance: The ARC proposal should not be in violation of the City's ordinance.

Recommendation: The SEIR needs to clearly state this potential conflict between the City's ordinance and the ARC's proposed agricultural buffer. The SEIR also needs to state that a change will need to be made to the ARC proposal – to use the developer's land rather than the City's land to satisfy the ag buffer requirement – if it is found to be in violation of the City's ordinance. Finally, on p. 3-14 the SEIR implies that the ag buffer proposal is "consistent" with the City's ordinance. This should be corrected since the proposal may not in fact be consistent with the ordinance.

General Comments**Use of Open Space Protection Tax money to satisfy ag buffer ordinance**

Issue: The ARC project proposes to use 6.8-acres of the City parcel just to the northwest of the project, often called the "Mace 25," to satisfy the agricultural buffer requirement spelled out in Davis Municipal Code 40A.01.050. However, given that the City's parcel was purchased with money from the Open Space Protection Tax, it is not clear that this use is legal; City-required ag buffers are not on the list of approved uses for this money (see http://qcode.us/codes/davis/view.php?topic=15-15_17-15_17_070).

Importance: The ARC proposal should not be in violation of the City's ordinance.

Recommendation: The SEIR needs to clearly state this potential conflict between the City's ordinance and the ARC's proposed agricultural buffer. The SEIR also needs to state that a change will need to be made to the ARC proposal – to use the developer's land rather than the land purchased with money from the Open Space Protection Tax to satisfy the ag buffer requirement – if it is found to be in violation of the City's ordinance.

General Comments

COMMENT

General Comments**Size of ag buffer**

Issue: The adequacy of the 150-wide agriculture buffer was challenged in an ARC SEIR scoping comment letter from the Director of the County of Yolo Department of Community Services ("County Director Letter"). The letter encouraged the City to "...refer to policies in the Countywide General Plan that seek to protect existing farm operations from impacts related to the encroachment of urban uses through use of an increased minimum buffer, as opposed to the City's minimum standard..." Policy LU-2.1 in the County's Land Use and Community Character Element "...recommends a minimum 300-foot setback for ensuring the proposed development will not adversely affect the economic viability or constrain the farming practices of agricultural operations" (emphasis in County Director Letter). Further, "County staff concur with Yolo County Local Agency Formation Commission (LAFCo) that provision of a 'minimum' agricultural buffer as prescribed by the City's Municipal Code "...may be insufficient for the significance of the proposed project." Even the City's Code states, "Optimally, to achieve a maximum separation and to comply with the five-hundred-foot aerial spray setback established by the counties of Yolo and Solano, a buffer wider than one hundred fifty feet is encouraged" (Davis Municipal Code 40A.01.050 Agricultural buffer requirement).

Importance: The agricultural buffer needs to be wide enough to do its intended job, i.e.: "To minimize future potential conflicts between agricultural and nonagricultural land uses and to protect the public health" (Davis Municipal Code 40A.01.050 Agricultural buffer requirement). The SEIR's analysis of potential impacts on surrounding farmland is insufficient.

Recommendation: Either the ag buffer needs to be widened from the current proposed 150 feet or the SEIR needs to be amended to acknowledge greater impacts on surrounding farmland than the SEIR currently describes.

General Comments**Annexation of 25 acre City-owned parcel**

Issue: It is clear that the ARC project proposes *annexing to the City* the City-owned 25 acres (Mace 25) at the northwest of the project. However, in some places the SEIR reads as it is proposing to annex the entire Mace 25 *to the project*. For example, p. 2-1 refers to "annexation of the entire 229-acre project site, including the Mace Triangle Site, into the City of Davis," where just above it is clearly stated that the Mace 25 is part of the 229 acres. Similarly, p. 2-13 states, "The project annexation area includes a 25-acre parcel owned by the City, a portion of which is being proposed to serve as the City-required agricultural buffer along the project's northern boundary." See also pages 3-1, 3-4, and 3-30.

Importance: Other places in the SEIR state that only 6.8 acres of the Mace 25 would be part of the ARC Project, not the entire 25 acres, so there is a contradiction.

Recommendation: The SEIR needs to clearly state that the entire Mace 25 is not proposed as a part of the ARC Project. Language that suggests that the entire parcel would be annexed to the project on the above identified pages should be removed or modified.

General Comments

COMMENT

General Comments**Description of project size**

Background: Page 3-1 states, “For CEQA purposes, the “ARC Site” is comprised of approximately 194 acres, and defined as the 187- acre, privately-owned property containing the Aggie Research Campus development footprint, and a proposed 6.8-acre easement on the City Parcel to satisfy the City’s 150-foot Agricultural Buffer requirements along a portion of the project’s northern boundary.”

Page 3-2 states: “The ARC Site, as depicted above, and described on the preceding page, includes the 187-acre privately-owned Aggie Research Campus development footprint, as well as a 6.8-acre easement on the City Parcel to satisfy the City’s 150-foot Agricultural Buffer requirements. The Agricultural Buffer area represented in the figure includes a total of 22.6 acres. Of the 22.6 acres, 15.8 acres are located within the privately-owned property containing the ARC development footprint and an additional 6.8 acres of easement area is located within the City Parcel. All 22.6 acres are considered to be part of the ARC Site for the purposes of this analysis.”

Issue: Several places in the SEIR refer to the size of the ARC project as **187 acres**, instead of **194 acres**, and compare it to the Mixed-Use Alternative at **229 acres**. However, as p. 2-5 shows, the size of the Mixed-Use Alternative is **212 acres**, not 229 (229 includes the 16.5 acre Mace Triangle, which is not part of either project proposal, but it is part of both annexation proposals). The 212 acres includes all of the required agricultural buffer (see p. 8-110 of the Mixed-Used Alternative). **An apple-to-apples comparison, including the complete ag buffer in both projects, is 194 acre ARC to 212 acre Mixed-Use Alternative.**

Importance: The mistake has the effect of making ARC look smaller than it is and the Mixed-Use Alternative look bigger than it is, exaggerating the difference between them. The actual difference in acreage is 212 acres - 194 acres = 18 acres (not 42 acres).

Recommendation: Every page where the complete size of the ARC project is referred to as 187 acres should be corrected to 194 acres. Every page where the complete size of the Mixed-Use Alternative is referred to as 229 acres should be corrected to 212 acres (especially pages 2-5, 2-6, 2-7, 2-8 (two places), 2-9).

General Comments

COMMENT

General Comments**Conclusions based on project size comparisons**

Issue: In several places in the Executive Summary – Aesthetics; Biological Resources; Cultural Resources; Geology, Soils, and Mineral Resources; Hydrology and Water Quality – the SEIR claims that there is a reduced impact due to the reduced footprint of ARC as compared to the Mixed-Use Alternative. However, as described in the previous point, that difference in footprint has been exaggerated by using mistaken numbers for both ARC and Mixed-Use Alternative. Furthermore, the more detailed discussions in Chapter 3 of each of the issue areas do not make the argument for the small change in footprint to have a detectable or noteworthy change in impact (thus, those claims are not “summaries”).

Importance: The claims for reduced impact made in the Executive Summary are based on false numbers, unjustified, and questionable.

Recommendation: The claims for a reduced impact based on a reduced footprint in the Executive Summary should be changed to reflect the actual differential in project footprints for the following areas: Aesthetics; Biological Resources; Cultural Resources; Geology, Soils, and Mineral Resources; Hydrology and Water Quality. (Not all of these fall within the purview of the OSHC, but for consistency’s sake they should all be changed).

General Comments**Total green space (on p. 1-3 but connected to other general issues).**

Issue: On p. 1-3, the SEIR states, “The Mixed-Use Alternative would have incorporated several privately maintained parks and open space areas throughout the site, totaling approximately 75.8 acres of green space. In comparison, the ARC Project would incorporate several privately maintained parks and open space areas throughout the site, totaling approximately 49.2 acres of green space. While this is a reduction of 26.6 acres, it is nearly entirely offset by the removal of the City’s 25-acre property from the development footprint.” However, as noted above, an apples-to-apples comparison between the Mixed-Use Alternative and ARC should include the 6.8 acres of ag buffer as part of ARC. Only approximately 18 acres (25 minus 7) of the City’s land has been “removed” from the project.

Importance: The SEIR incorrectly states that the reduction of green space in the project is “nearly offset” by the removal of Mace 25 from the proposal.

Recommendation: Page 1-3 should be corrected to state that 18 acres, not 25 acres, would not be part of the ARC project, and the inaccurate claim about the loss of green space being “nearly entirely offset” should be deleted. Also, the SEIR should show how 49.2 acres of green space is part of the proposal, since earlier ARC documents stated there would be 37.7 acres of green space.

Consolidated Comments -- Open Space and Habitat Commission
Aggie Research Campus SEIR

Chapter 3.5 -- ARC Project Analysis

Aesthetics & Visual Resources

COMMENT

p. 3-36

Issue: The SEIR states, “officially designated scenic highways, corridors, vistas, or viewing areas do not exist within the City’s planning area and established scenic vistas are not located on or adjacent to the ARC Site” (p. 3-36). This is incorrect. The City’s document, “Open Space Priorities with Public Lands as of 2013,” appearing on the City’s website at <https://www.cityofdavis.org/home/showdocument?id=2854>, depicts views of the Sierra Nevada and the Sacramento skyline looking east from the City.

Importance: Aesthetic values, including scenic vistas, are one of the five values used to evaluate open space areas in the City.

Recommendation: The SEIR should state, and factor in, that the ARC Project would entail a significant impact to a priority open space viewshed (the Sierra Nevada and the Sacramento skyline) identified by the City of Davis's Open Space Program.

Chapter 3.5 -- ARC Project Analysis**Agriculture & Forest Resources****COMMENT****Page 3-44**

Issue: The SEIR states, “Specifically, the MRIC Site includes approximately 159 acres of Prime Farmland and 39 acres of Farmland of Statewide Importance, a substantial portion of which the EIR concluded would be converted to urban uses with buildout of the MRIC Project,” noting that ARC would use somewhat less because not all of the Mace 25 is included in the project. Nonetheless, the ARC SEIR concludes that even with mitigation “the impact would remain significant and unavoidable” because “active agricultural land would still be permanently converted to urban uses” (p. 3-44). However, the impact of the loss of agricultural land in the context of climate change is not discussed. The IPCC has stated that “climate change has already affected food security due to warming, changing precipitation patterns, and greater frequency of some extreme events” (<https://www.ipcc.ch/srccl/chapter/summary-for-policymakers/>). New studies suggest that agriculture can help reduce climate change through carbon sequestration (<https://ww3.arb.ca.gov/cc/natandworkinglands/draft-nwl-ip-1.7.19.pdf>).

Importance: New facts about climate change increase the significance of the loss of agricultural lands because usable farmland is reduced with climate change, yet certain farming practices can help to mitigate the effects of climate change.

Recommendation: The SEIR should factor in a discussion of climate change when evaluating the significance of the loss of Prime Farmland and Farmland of Statewide Importance that the ARC Project would bring.

Page 3-43 and 3-45**Mitigation Measures 3-5(a) and 3-7(b)**

The SEIR requires that the form of easement used for the agricultural mitigation land is the form used by the Yolo Habitat Conservancy. This effectively excludes the Yolo Land Trust from being involved in the acquisition of an easement. The requirement that the form of easement used must be the form of easement approved by the Yolo Habitat Conservancy should be removed.

Chapter 3.5 -- ARC Project Analysis

Biological Resources

COMMENT

Page 3-78

Issue: On p. 3-78, the SEIR states, "Of the four bat species mentioned above, only the pallid bat (*Antrozous pallidus*) is designated as a Species of Special Concern by the CDFW (2019a)." That is incorrect. The hoary bat (*Lasiurus cinereus*) is also listed as a Species of Special Concern.

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406>

Importance: Species of Special Concern should get greater attention in the SEIR.

Recommendation: Page 3-78 of the SEIR needs to be corrected to acknowledge that the hoary bat is a California Species of Special Concern and it should get additional evaluation as a result, as was done for the pallid bat.

Page 3-79

Issue: Concerning bats, on p. 3-79, the SEIR states, "The foraging habitat in the Study Area is marginal and of minor extent when compared to the quality and extent of foraging habitat available in the greater region in and surrounding the Yolo Bypass." However, this claim is unsupported by evidence. As the SEIR itself admits, "Bats known to occur in the region would be expected to forage in and over the Study Area during summer evenings, when conditions are appropriate (i.e., warm and calm)." Yet bats were not studied during these months, only in the winter months, and they were not studied during the evenings. There could be greater use of this area for foraging by bats than expected. Without study, this is unknown, and the claim is unsupported.

Importance: There are at least four bat species that frequent this area, as the SEIR acknowledges, and two of them are Species of Special Concern: the pallid bat (*Antrozous pallidus*) and the hoary bat (*Lasiurus cinereus*).

Recommendation: The SEIR should acknowledge that the project will result in the permanent loss of potential bat foraging habitat. Greater justification for the conclusions need to be provided.

Chapter 3.5 -- ARC Project Analysis**Biological Resources****COMMENT**

Page # 2-39 - Impact 3-18**Impacts to burrowing owls**

As written, the avoidance and minimization measures in the SEIR for impacts to burrowing owls do not reduce potential impacts to a level of less than significant, in the event that an active burrowing owl burrow is discovered within the proposed development limits of the Aggie Research Campus (Project) site. If the Project will result in the permanent loss of active burrowing owl burrows, a qualified biologist should prepare a mitigation and monitoring plan in accordance with CDFW's *Staff Report on Burrowing Owl Mitigation* (2012). The Mitigation and Monitoring Plan should be submitted for CDFW review and approval prior to the start of Project activities. The Mitigation and Monitoring Plan should include the permanent protection of occupied burrowing owl habitat, at a mitigation to impacts ratio acceptable to CDFW, through a conservation easement deeded to a non-profit conservation organization or public agency with a conservation mission, for the purpose of conserving burrowing owl habitat and prohibiting activities incompatible with burrowing owl use. Habitat should not be altered or destroyed on the Project site, and burrowing owls should not be excluded from burrows until mitigation lands have been legally secured and are managed for the benefit of burrowing owls according to Department-approved management, monitoring and reporting plans; and the endowment or other long-term funding mechanism is in place or security is provided until these measures are completed.

Chapter 3.5 -- ARC Project Analysis

Biological Resources

COMMENT

Page # 2-39 - Impact 3-18

Impacts to burrowing owls

I believe it is important that the EIR include an avoidance and minimization measure requiring that either a qualified biologist or a trained biological monitor perform a daily inspection of the areas where construction activities are planned for that day, prior to starting project construction each day. Burrowing owls can be attracted to minor amounts of land disturbance, associated with construction sites (e.g. dirt mounds, mounds of concrete rubble). This includes equipment staging and soil stockpile areas outside of the active construction sites. Once the site has been deemed clear of burrowing owls by a qualified biologist or trained biological monitor, construction activities can begin for the day. It looks like the EIR already has a measure giving a qualified biologist the authority to stop work in order to avoid harming wildlife, but this same authority should be extended to biological monitors, if used.

Page # 2-39 - Impact 3-18

Impacts to burrowing owls

If the project is proposing to construct artificial burrows within the agricultural buffer surrounding the ARC development site, the artificial burrows should be monitored and maintained yearly to ensure they function as intended (i.e. the project proponent should develop a monitoring and maintenance plan that specifies criteria for when and how artificial burrows will be cleaned out of debris in order to continue their function as being suitable nest burrows. Without this maintenance, artificial burrows are not likely to be successful in the long term.

Chapter 3.5 -- ARC Project Analysis

Hydrology & Water Quality

COMMENT

Pages 3-38 and 3-69

Issue: On pages 3-168 and 3-169, an alternative is described for storing water runoff from the ARC Site on the easternmost parcel owned by the City of Davis, adjacent to the MDC and Yolo Bypass levee (APN 033-300-015: 204 acres). The SEIR states that two other sites could alternatively provide the necessary storage (APN 033-300-001: 248 acres and 300-650-006: 327 acres). To provide storage for increased volume from ARC Site and the Mace Triangle Site during major storm events, 100 acres of topsoil would be removed and stockpiled, the selected area excavated to the design depth, and the topsoil then spread back over the lowered field. Excavated materials, not including the temporarily removed topsoil, would be imported to the ARC Site. The impact of the excavation, the impact on the ability to farm or have viable habitat on the chosen site, and other possible impacts are not discussed in the SEIR.

Importance: The Replacement Storage Alternative would increase by approximately 50% the acreage that is impacted by the ARC project – possibly more if the "unused" parts of the chosen parcel were impacted. It would also be a substantial use of City-owned land, in addition to the proposed use of the City's 6.8 acres for a required ag buffer.

Recommendation: The environmental impacts of the Replacement Storage Alternative need to be studied and described for each of the three proposed City-owned areas, as separate EIRs or as part of the main EIR (with alternative uses considered), including but not limited to effects that this large-scale excavation would have on wildlife, plant life, habitat, soil compaction, and subsequent agricultural use. We further recommend that an alternative be assessed for the creation of a seasonal wetland habitat area on the site of the soil removal.

**OPEN SPACE AND HABITAT COMMISSION
Project Recommendations -- Aggie Research Campus (ARC)
April 23, 2020**

On a motion by Commissioner Allen, seconded by Commissioner Huber, the Open Space and Habitat Commission voted 6-0-0 to approve the following motion at a special meeting on April 23, 2020 (Ayes – Allen, Huber, Klineberg, Millstein, Shaw, Vayssieres; Noes – none; Absent – None; Abstentions – none):

“In addition to the recommendations given by the Open Space and Habitat Commission on November 4, 2019 (Attachment 1), the Commission further recommends the following:

1. The Open Space and Habitat Commission does not recommend the ARC project as currently proposed, because it will result in the substantial net loss of the following noteworthy combination of open space values:

- Prime agricultural land (96.6% classified as Farmland of Local Importance, including approximately 141 acres of Prime Farmland),
- Open space on the City’s perimeter (“Urban Fringe”),
- Potential habitat for sensitive species such as Swainson’s hawk (California Threatened), burrowing owl (Species of Special Concern), and white-tailed kite (Fully Protected) (“Biological Resources”),
- Views of significant landmarks, namely the Sierra Nevada and the Sacramento skyline (“Scenic Resources”) and aesthetic qualities more generally,
- Open space and habitat opportunities on seven of the entire City-owned twenty-five acres in the Northwest corner of the site (“Mace 25”), and
- Open space and habitat opportunities on the Howatt-Clayton Ranch, proposed as water runoff storage.

The Open Space and Habitat Commission urges the City Council to strongly factor in the loss of these open space values in the Council’s decision-making process. If the ARC project were to remove the ag buffer from the Mace 25 property and to include a developer-financed habitat enhancement project on the disturbed area of Howatt Ranch, the Commission would be willing to revisit its decision.

[Note this is similar to a resolution passed by the OSHC on March 7, 2016].

2. The Open Space and Habitat Commission (OSHC) reiterates its January 7, 2019 recommendations regarding the future use of the City’s Mace 25 parcel (Attachment 2).

3. The Open Space and Habitat Commission recommends that the City’s 25 acres of open space just to the east of the Mace curve and northwest of the proposed ARC site (Mace 25) either

OPEN SPACE AND HABITAT COMMISSION
Project Recommendations -- Aggie Research Campus (ARC)
April 23, 2020

not be annexed to the City, or if they are annexed, that they are given an "Agriculture" and/or "Natural Habitat Area" General Plan Land Use Designation.

4. The Open Space and Habitat Commission recommends the following language be included in the development agreement and baseline features for the ARC Project as currently proposed:

City-owned land shall not be utilized in any manner, including but not limited to conveyance of easements or transfer in fee title, to fulfill any component of the project's agricultural, open space and/or potential habitat impact mitigation obligations. City-owned land shall also not be utilized for the purposes of meeting the project's off-site stormwater conveyance and/or storage needs. This prohibition includes but is not limited to the "Mace 25" parcel and the "Howatt/Clayton Ranch" properties.

If the ARC project were to remove the ag buffer from the Mace 25 property and to include a developer-financed habitat enhancement project on the disturbed area of Howatt Ranch, the Commission would be willing to revisit its decision.

5. The Open Space and Habitat Commission recommends the following, slightly modified from language from the Draft ARC SEIR (Page 3-14), be included in the baseline features for the ARC Project:

The agricultural buffer for the ARC Project would include planned and natural spaces, utilized in part for drainage swales, on-site detention, bio swales, visual and noise attenuation, and owl habitat, as well as cycling and pedestrian trails. The 22.6-acre agricultural buffer would abut active agricultural operations located along the north and east sides of the site.

The project applicant, in consultation with a biological expert, would build three artificial burrow complexes for burrowing owls within the agricultural buffer along the perimeter of the ARC Site. The burrow complexes would be located within the 150-foot wide agricultural buffer, but not within the drainage swales, or the 50-foot wide agricultural transition area, where bike paths, community gardens, and other potential uses could occur. A burrowing owl site management plan would be prepared consistent with applicable portions of the Yolo HCP/NCCP.

In recognition of the fact that burrowing owls require relatively short vegetation with sparse shrubs and taller vegetation and burrows for nesting, the ARC Project will implement the following measures within the external 100-foot buffer area to ensure that the existing and created habitat within this area will be beneficial for burrowing owls:

- *Reduce or cluster trees to allow large expanses of grassland within the buffer,*

OPEN SPACE AND HABITAT COMMISSION
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- *Implement seasonal mowing, or preferably, stock grazing of grassland areas in the buffer to maintain short grass height preferred by burrowing owls,*
 - *Preserve any California ground squirrels that colonize the buffer grasslands, including their burrows, and*
 - *Establish the three artificial burrow systems currently proposed in the buffer area. The buffer on the north side of the ARC Site, east of CR 104 is a particularly suitable location to establish one or more of the artificial burrows. Nearby, occupied burrowing complexes exist along CR 104, on the Mace Boulevard curve, and along CR 30B.*
-

6. The Open Space and Habitat Commission recommends that the agricultural buffer as currently required under 40A.01.050 be included as a baseline project feature for the ARC Project.
-

7. The Open Space and Habitat Commission recommends that the following mitigation measure be included in the Development Agreement for the project:

In the event that an active burrowing owl burrow is discovered within the proposed development limits of the Aggie Research Campus (Project) site. If the Project will result in the permanent loss of active burrowing owl burrows, a qualified biologist should prepare a mitigation and monitoring plan in accordance with CDFW's Staff Report on Burrowing Owl Mitigation (2012). The Mitigation and Monitoring Plan should be submitted for CDFW review and approval prior to the start of Project activities. The Mitigation and Monitoring Plan should include the permanent protection of occupied burrowing owl habitat, at a mitigation to impacts ratio acceptable to CDFW, through a conservation easement deeded to a non-profit conservation organization or public agency with a conservation mission, for the purpose of conserving burrowing owl habitat and prohibiting activities incompatible with burrowing owl use. Habitat should not be altered or destroyed on the Project site, and burrowing owls should not be excluded from burrows until mitigation lands have been legally secured and are managed for the benefit of burrowing owls according to Department-approved management, monitoring and reporting plans; and the endowment or other long-term funding mechanism is in place or security is provided until these measures are completed.

8. The Open Space and Habitat Commission recommends that the burrowing owl habitat area is distinct from the drainage swale in the ag buffer and that the bike paths should be situated so that they are not negatively impacting the burrowing owl habitat. Both of these recommendations should be in the Development Agreement.
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Attachments:

- Attachment 1: November 4, 2019 – Commission Recommendations on ARC
Attachment 2: January 7, 2019 – Commission Recommendations on Mace 25”

Attachment B
Attachment 1

OPEN SPACE AND HABITAT COMMISSION
Recommendations for Aggie Research Campus Development Proposal
November 4, 2019

The Open Space and Habitat Commission passed the following motion at its regular meeting on November 4, 2019:

“The Open Space and Habitat Commission recommends that, if the City Council approves the Aggie Research Campus project, the following project features should be included in the project’s “Baseline Project Features” and/or Development Agreement:

1. The agricultural mitigation land should be located within the Davis Planning Area;
2. The east side of the east-west channel should be natural like the rest of the channel;
3. Native plants should predominate the channel and agricultural buffer;
4. Burrowing owl habitat should be on the northwest segment of the agricultural buffer, pending confirmation from the City’s wildlife biologist;
5. The agricultural buffer and east-west channel should be managed for habitat;
6. The east-west channel must have a public access easement;
7. Trees and pollinator habitat should be disbursed throughout the site, including in parking areas; and
8. If the agricultural buffer remains on the “Mace 25” site, the agricultural buffer should be wider.

In addition, the Open Space and Habitat Commission recommends that (1) one of the project’s “Conditions of Approval” should be that the project come back to the Open Space and Habitat Commission before approval of appropriate final entitlements, and (2) environmental documents should come back to the Open Space and Habitat Commission during the 90-day comment period and after the Response to Comments period.”

On a motion by Commissioner Millstein, seconded by Commissioner Klineberg, the Commission voted 5-0-3-0 to approve the above motion (Ayes – Allen, Holstege, Huber, Klineberg, Millstein; Noes – none; Absent – Gooch, Shaw, Vayssieres; Abstentions – none).

Attachment B
Attachment 2

Commission Motion
25 Acres of City-Owned Open Space East of Mace Boulevard
January 7, 2019

WHEREAS, in 2008, the City Council directed the Open Space and Habitat Commission (the “Commission”) to investigate the implementation of a community farm or farms in the City; and

WHEREAS, in 2009, in response to the City Council’s directive, the Commission developed detailed research information summarized in the *Community Farms White Paper*; and

WHEREAS, in 2011, the City Council again directed the Commission to investigate the implementation of a community farm or farms in the City. In response, the Commission began a multi-year effort to investigate numerous City-owned sites for possible locations of community farms; and

WHEREAS, in 2011, the City acquired 391 acres east of Mace Boulevard, known as Leland Ranch, as part of its efforts to conserve open space. The acquisition was funded with the City’s special open space protection parcel tax, or Measure O. The City intended to resell the property with a permanent agricultural conservation easement; and

WHEREAS, in 2012, the Commission developed a plan for a potential community farm on 25 acres of Leland Ranch; and

WHEREAS, in 2013, the City resold approximately 365 acres of the 391-acre Leland Ranch to a farming interest. The City retained a permanent agricultural conservation easement on the 365 acres; and

WHEREAS, in 2013, the City retained ownership of approximately 25 acres of Leland Ranch (the “Mace 25 Open Space Site”) with the intention of providing an even greater open space benefit to the City’s residents on that portion of Leland Ranch than was achieved by the permanent agricultural conservation easement on the rest of Leland Ranch; and

WHEREAS, half the cost of the permanent agricultural conservation easement on the 365 acres was funded with Measure O open space parcel taxes. The other half was funded with a federal Natural Resources Conservation grant from the U.S. Department of Agriculture (Farm and Ranch Lands Protection Program). The City declined the federal matching grant funds for the Mace 25 Open Space Site in order to keep the property in City ownership to use for open space values, such as a community farm, above and beyond the open space benefit derived from reselling it with a permanent agricultural conservation easement; and

WHEREAS, in 2014, the Mace 25 Open Space Site was included in a 229-acre proposal from Ramco Enterprises, a West Sacramento land developer, to build a commercial/residential project known as the Mace Ranch Innovation Center (“MRIC”). MRIC is currently on hold; and

WHEREAS, in 2015, the Commission expressed its preferences for the Mace 25 Open Space Site to the City Council. The Commission’s preferences at that time were as follows: (1) the

Attachment B
Attachment 2

City retains the Mace 25 Open Space Site and develops it into a community farm, (2) the City retains the Mace 25 Open Space Site as open space, (3) the City swaps the Mace 25 Open Space Site for an equivalent or superior parcel for a community farm, and (4) the City sells the Mace 25 Open Space Site but retains a permanent agricultural conservation easement; and

WHEREAS, in 2015, the City Council directed staff and the Commission to continue exploring the concept of creating one or more community farms throughout the City. The City Council declined to remove the Mace 25 Open Space Site from the proposed MRIC project. However, the City Council also deemed the Mace 25 Open Space Site suitable as a potential location for a community farm; and

WHEREAS, the Commission continues to believe the Mace 25 Open Space Site is suitable for open space uses, including those greater than would have been achieved if the site had been included in the permanent agricultural conservation easement placed on the remainder of Leland Ranch; and

WHEREAS, beneficial open space uses for the Mace 25 Open Space Site include a community farm, or wildlife habitat (i.e., for burrowing owls and Swainson's hawks), or open space public access/recreation, or a combination of these uses.

NOW, THEREFORE, the Open Space and Habitat Commission does hereby recommend to the City Council the following:

1. The Mace 25 Open Space Site should be used for a community farm, or wildlife habitat (i.e., for burrowing owls and Swainson's hawks), or open space public access/recreation, or a combination of these uses; and
2. If the Mace 25 Open Space Site is sold for urban development in exchange for land, the City should ensure that:
 - a. The loss of burrowing owl habitat on the Mace 25 Open Space Site is properly mitigated; and
 - b. The Mace 25 Open Space Site is exchanged for land that is even more suitable for a community farm, or wildlife habitat, or public access/recreation, or a combination of these uses; and
 - c. The Mace 25 Open Space Site is exchanged for land that is of equal or greater monetary value at the time of sale; and
3. If the Mace 25 Open Space Site is sold for urban development in exchange for money, the City should ensure that:
 - a. The loss of burrowing owl habitat on the Mace 25 Open Space Site is properly mitigated; and
 - b. The full Fair Market Value (or greater) of the Mace 25 Open Space Site at the time of sale is deposited into the Measure O fund; and
 - c. This transaction does not set a precedent for using the Measure O fund as a "piggy bank" for the City for non-open-space purposes; and

Attachment B
Attachment 2

4. If a future MRIC proposal does not include the Mace 25 Open Space Site, then the Commission requests that the City Council designate it as open space so that it can be developed into one of the uses in #1.

End of Motion

On a motion by Commissioner Millstein, seconded by Commissioner Shaw, the Commission voted 7-0-0-0 to approve the above motion, as amended. (Ayes – Gooch, Holstege, Huber, Klineberg, Millstein, Shaw, Vayssieres; Noes – None; Absent – None; Abstentions – None).