

Open Space and Habitat Commission Minutes
Monday, June 1, 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 Shaw, seconded by Commissioner Vayssieres, the Commission voted 6-0-0-0 to approve the June 2020 regular meeting agenda (Ayes – Allen, Huber, Klineberg, Millstein, Shaw, Vayssieres; Noes – None; Absent – None; Abstentions – None).

3. Brief Announcements from Staff, Commissioners, and City Council Liaisons

Tracie Reynolds, staff to the Commission, updated the Commission on progress getting an encroachment permit from the Central Valley Flood Protection Board for public accessibility improvements at South Fork Preserve. Commissioner Shaw informed the Commission that the Putah Creek Council had now hired a new permanent Executive Director and she no longer needed to fill that position on an interim basis.

4. Public Comment

Colin Walsh expressed concern that members of the public are being required to enter their names and email addresses to participate in remote public meetings. He said he believed that was a violation of the Brown Act. He said he believed the Commission could not require members of the public to state their names for the record. Commissioner Huber said the Commission would not force anyone to state their name, but that it was his personal preference that members of the public stated their first and last names for the record.

5. Consent Calendar

There was only one item on the consent calendar: approval of the May 12, 2020 regular meeting minutes. On a motion by Commissioner Allen, seconded by Commissioner Huber, the Commission voted 4-0-0-2 to approve the May regular meeting minutes (Ayes – Allen, Huber, Millstein, Vayssieres; Noes – None; Absent – None; Abstentions – Klineberg, Shaw).

6. Regular Items

Action Item – Recommend approval of the land management plan for the City’s Wildhorse Agricultural Buffer, located north and east of the Wildhorse golf course

At the Commission’s May meeting, the Commission received a presentation from Chris Gardner, the City’s Open Space Lands Manager, about the draft management plan for the City’s Wildhorse Agricultural Buffer. As explained during that meeting, the purpose of this management plan is to identify the natural resources present on the Wildhorse Agricultural Buffer and set goals for their long-term maintenance. The plan outlines those goals, as well as several specific objectives intended to define the City’s management activities going forward. It also outlines how to manage public access to the ag buffer in a way that doesn’t degrade the habitat areas. At the May meeting, Mr. Gardner agreed to bring the final land management plan back to the Commission in June for its recommended approval.

Mr. Gardner said he made some changes to the management plan based on the Commission's feedback at the May meeting. He said he finished narrative sections, added some maps, included the monitoring plan in the appendix, and corrected the maximum mean "effective height" of grasses and forbs to between four and six inches in the burrowing owl habitat area. The "effective height" measures both the height of the grasses and their density. City staff intend to monitor and maintain the forbs and grasses at a maximum mean effective height of between four and six inches between January and May in this area of the ag buffer.

Commissioner Millstein then took public comment on this item. There was no public comment.

Commissioner Millstein then closed public comment and the Commission discussed this item. Several Commissioners thanked and commended Mr. Gardner and John McNerney, the City's Wildlife Biologist, for their work finalizing the land management plan. Several Commissioners said they were pleased and impressed with the final product.

On a motion by Commissioner Vayssieres, seconded by Commissioner Klineberg, the Commission voted 6-0-0-0 to recommend approval of the land management plan for the City's Wildhorse Agricultural Buffer (Ayes – Allen, Huber, Klineberg, Millstein, Shaw, Vayssieres; Noes – None; Absent – None; Abstentions – None).

Action Item – Recommend that the City Council approve the attached ordinance (Attachment 4) to place renewal of Measure J (the "Citizens Right to Vote on Future Use of Open Space and Agricultural Lands" Ordinance) on the November 2020 ballot for voter consideration that (i) incorporates minor technical changes into the Measure J language as described and shown in Attachment 4; and (ii) establishes the new sunset date as December 31, 2030
At the Commission's May meeting, the Commission tabled this item until June. Staff did not give a presentation to the Commission on this item. Instead, staff shared a May 27, 2020 staff report that was sent to the Planning Commission.

Commissioner Millstein then took public comment on this item. Eileen Samitz said she supported staff's recommended minor technical changes to Measure J and that it was important that the measure goes back on the ballot as proposed. Colin Walsh said the measure is important for keeping the city's footprint compact and encouraging infill development. He said Measure J is a better planning process than controversial voter referendums. Nancy Price requested that the Commission endorse staff's recommended minor technical changes to the measure.

Commissioner Millstein then closed public comment and the Commission discussed this item. Several Commissioners expressed their strong support of Measure J and of staff's recommendation to leave the measure mostly as-is, except for some minor technical changes. Commissioner Huber said the measure is an important tool for getting better open space and habitat features in development projects. Commissioner Millstein said the measure also means that only the best development projects are built on open space land. Based on these comments, the Commission crafted the motion below:

"In recognition of the fact that Measure J has been instrumental to the City's Open Space Program, allows the City to best pursue open space and habitat features, and ensures that only the best projects get built on open space land, the Open Space and Habitat Commission recommends that the City Council approve the attached ordinance (Attachment 1) to place renewal of Measure J (the "Citizens Right to Vote on Future Use of Open Space and Agricultural Lands" Ordinance) on the November 2020 ballot for voter consideration that (i) incorporates only those minor technical changes into the Measure J language as described and shown on Attachment 1, and no other changes; and (ii) establishes the new sunset date as December 31, 2030."

On a motion by Commissioner Huber, seconded by Commissioner Allen, the Commission voted 6-0-0-0 to recommend the above motion (Ayes – Allen, Huber, Klineberg, Millstein, Shaw, Vayssieres; Noes – None; Absent – None; Abstentions – None).

Discussion Item – Receive a presentation from staff and discuss the ag mitigation requirements for the Bretton Woods development project and the developer's proposed ag mitigation land

The Commission received a presentation from Ms. Reynolds on this topic. In her presentation, Ms. Reynolds focused on the City's ag mitigation requirements, the details of the proposed mitigation land, Yolo County's ag mitigation requirements in general, and the ag mitigation requirements under the project's Environmental Impact Report ("EIR").

As part of the project's approvals, she said the developer is required to mitigate for the land that is permanently being taken out of agricultural production. That land includes land inside the City limits and land outside the City limits. The land inside the City limits needs to be mitigated pursuant to the City's ag mitigation requirements, and the land outside the City limits needs to be mitigated pursuant to Yolo County's ag mitigation requirements. The project's EIR also requires ag mitigation. The developer must comply with all three of these requirements, she said.

Commissioner Millstein then took public comment on this item. Jason Taormino, a representative of the Bretton Woods developer, said he and his team were available to answer any questions and he looked forward to the next meeting.

Commissioner Millstein then closed public comment and the Commission discussed this item. Issues discussed include the size and connectivity of the proposed ag mitigation parcels, the habitat potential on some of the parcels, whether a portion of the Willow Slough Bypass should be allowed to serve as ag mitigation land, and whether the land north of Bretton Woods should be considered urbanized. Ms. Reynolds said that after the EIR Addendum is published, the Commission will be asked to recommend that the City Council approve/disapprove a particular ag mitigation plan(s).

Discussion Item – Receive a presentation from staff and discuss the 2020 annual financial review of the City's Open Space Program budget

The Commission received a presentation on this topic. She discussed the budget and accomplishments from the last fiscal year, and the budget and goals for the next fiscal year. She also discussed fund balances for the City's Open Space Program and detailed how the Measure O parcel tax has been spent and will be spent during the next fiscal year. She also said that about \$100,000 in additional budget was approved for the North Davis Uplands Habitat Area. She also said that all City budgets had to reduce General Fund expenditures by 10% as a result of the economic downturn brought on by the coronavirus. For this reason, Measure O would be paying a greater percentage of open space staffing costs. Nevertheless, she said that maintenance expenses as a percentage of the annual Measure O parcel tax will be maintained at 33%.

Commissioner Millstein then took public comment on this item. There was no public comment. Commissioner Millstein then closed public comment and the Commission discussed this item. Several Commissioners thanked staff for the presentation and said they were relieved the budget was not impacted that much by the pandemic.

7. Commission and Staff Communications

Commission Work Plan

The Commission work plan was not discussed.

Upcoming Meeting Date, Time, Items

The Commission will be asked to hold a special meeting in June to make recommendations about the Bretton Woods ag mitigation proposal and the Bretton Woods open space and habitat features. That meeting has yet to be scheduled. The next regularly scheduled Commission meeting is September 14, since September 7 is a holiday.

Upcoming Events

No upcoming events were discussed.

Working Groups

1. *Acquisitions*. No updates were reported.
2. *Habitat Restoration and Enhancement*. No updates were reported.
3. *Land and Resource Management*. No updates were reported.
4. *Public Access and Recreation*. No updates were reported.
5. *Financial and Program Accountability*. No updates were reported.
6. *Public Engagement and Partnerships*. No updates were reported.

8. Adjourn

The meeting was adjourned at approximately 9:13 p.m.

**Attachment 1
Proposed Ordinance**

AN ORDINANCE OF THE CITY OF DAVIS AMENDING THE CITY'S GENERAL PLAN TO AMEND AND EXTEND "MEASURE J" WHICH ENACTED A POLICY REQUIRING VOTER APPROVAL FOR CERTAIN CHANGES TO THE LAND USE DESIGNATIONS OR ENTITLEMENTS OF PROPERTIES SHOWN ON THE GENERAL PLAN LAND USE MAP AND ENACTING THE CITIZENS' RIGHT TO VOTE ON FUTURE USE OF OPEN SPACE AND AGRICULTURAL LANDS ORDINANCE TO EXTEND THE SUNSET DATE OF THE MEASURE TO DECEMBER 31, ~~2030~~2020 AND TO MAKE TECHNICAL CHANGES TO THE ORDINANCE WHICH PROVIDES FOR VOTER APPROVAL OF (1) ANY GENERAL PLAN LAND USE MAP AMENDMENT THAT CHANGES A LAND USE DESIGNATION FROM AN AGRICULTURAL OR URBAN RESERVE DESIGNATION TO AN URBAN DESIGNATION OR FROM AN AGRICULTURAL DESIGNATION TO AN URBAN RESERVE DESIGNATION AND (2) ANY PROPOSAL FOR DEVELOPMENT ON THE LAST TWO LARGE VACANT PROPERTIES DESIGNATED FOR URBAN USE COMMONLY KNOWN AS THE COVELL CENTER AND NISHI PROPERTIES; THIS ORDINANCE TO BE ADOPTED BY THE VOTERS AND EFFECTIVE UPON ADOPTION BY THE VOTERS OF THE CITY

WHEREAS, the City of Davis is a small, University-oriented city surrounded by and containing farmlands, open space, greenbelts, and natural habitats and reserves; and

WHEREAS, the City desires to protect the viability of agriculture and agricultural land within the Davis Planning Area; and

WHEREAS, the City desires to protect agricultural vistas and viewsheds from urban encroachment to maintain the visual qualities of a compact city surrounded by agricultural and open space lands; and

WHEREAS, the City's General Plan prohibits new residential subdivisions and other urban development in areas designated as agricultural reserve or agricultural open space on the General Plan map; and

WHEREAS, the City's General Plan includes and supports the Yolo County Davis Area Plan which calls for the protection of agriculture and agricultural land from urban development, and states that the maintenance of the agricultural economy of the county requires containment of urbanization and recognizes that agricultural uses are the highest and best uses of the land within Yolo County; and

WHEREAS, continued urban encroachment into agricultural lands exacerbates suburban sprawl, threatens the public health, safety and welfare by causing increased traffic congestion, increased air pollution, potentially adverse impacts on water and water resources, and the irreversible loss of agricultural and open space lands, among other adverse environmental impacts; and

WHEREAS, the City recognizes the importance of affordable housing and requires that, to the extent feasible, for-sale and rental housing developments meet certain affordable housing standards as set forth in the General Plan and the Affordable Housing Ordinance; and

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WHEREAS, for the period from July 1, 1989 to June 30, 1996, the City ~~has~~ provided approximately 137 percent of its legal fair share housing requirement as determined by the Sacramento Area Council of Governments (SACOG); and

WHEREAS, buildout of the 1987 General Plan through 2010 ~~would~~ result~~ed~~ in an average annual growth of 1.87 percent within the City; and

WHEREAS, the actual annual population growth rate with~~in~~ the City of Davis from 1988 through 1999 ~~within the city has been~~ was 2.39 percent, which ~~wasis~~ 28 percent higher than anticipated, placing significant burdens on public infrastructure and educational facilities; and

WHEREAS, allowing urbanization of additional lands during the remainder of the General Plan period would create the potential for sustaining a growth rate that is higher than anticipated, thus justifying direct citizen participation in substantive land use decisions that affect future city size and population; and

WHEREAS, the General Plan calls for a mechanism to regulate growth and housing construction, such as the phased allocation system; and

WHEREAS, adoption of an additional General Plan policy requiring voter approval, as set forth herein, will strengthen the existing policies of the General Plan calling for public participation in land use decisions; and

WHEREAS, requiring voter approval of land use designation amendments from agricultural to urban or urban reserve or from urban reserve to urban will ensure opportunities for full public participation in decisions affecting future use of agricultural and open space lands that surround the City; and

WHEREAS, requiring voter participation in any land decision affecting the two remaining large vacant properties currently in agricultural or open space use, but designated for urban uses, as defined herein provides an appropriate public forum for deciding future use of these properties for either long term agricultural use or for urban development relative to city policies for compact urban form, agricultural lands preservation, housing and economic development; and

WHEREAS, in March 2000, the voters of the City approved "Measure J," the Citizens' Right to Vote on Future Use of Open Space and Agricultural Lands Ordinance, and this Measure provided that the voters would consider whether to renew this Ordinance prior to December 31, 2010; and

WHEREAS, in May 2001, as part of the 2001 General Plan Update, the properties commonly known as Covell Center and Nishi Properties were designated Agriculture in the City's General Plan and are now subject to the citizen vote provisions of this Ordinance because of their Agricultural land use designations as well as the express terms of "Measure J;"; and

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WHEREAS, in June 2010, the voters of the City reaffirmed and extended "Measure J," the Citizens' Right to Vote on Future Use of Open Space and Agricultural Lands Ordinance, and that Ordinance (Ordinance 2350) provided that the voters would consider whether to renew the Ordinance prior to December 31, 2020; and

WHEREAS, in June 2018, voters approved a revised proposal to develop the Nishi site with 2,200 residential "beds" in approximately 700 residential units. As of November 2020, this project had not yet been built. If references to the Nishi site are removed from Measure J, then voters would not be able to vote on any future development proposals, should the current project that was approved by voters not get built for any reason. For this reason, references to the Nishi site will remain in Measure J to retain the community's right to vote on any future development proposals on the Nishi site (should the project approved by voters does not get built); and

WHEREAS, the renewal of "Measure J" will be placed before the voters at the November 2020~~June 2010~~ general election; and

WHEREAS, since 1999, the City has provided affordable housing locations through its inclusionary zoning regulations, has participated in the funding of affordable housing, has designated land in a manner to facilitate affordable housing, and has cooperated with the Davis Redevelopment Agency (until 2012 when it was dissolved) in the funding of affordable housing, thereby meeting its regional housing needs allocation ("RHNA").

NOW, THEREFORE, THE PEOPLE OF THE CITY OF DAVIS DO HEREBY ORDAIN AS FOLLOWS:

Section 1. The City of Davis General Plan, Land Use Element is hereby amended to modify the ~~sunset date of numbering of the following~~ Guiding Policy ~~to Policy~~ LU 1.3 ~~and to modify the sunset date~~ as follows:

“LU 1.3 Establish and require a citizens' vote process for any proposed amendment to the Land Use Map as amended through August 1, 1999 from an agricultural or urban reserve designation to an urban designation or from an agricultural designation to an urban reserve designation; or for any development proposal on the Covell Center and Nishi properties¹; to ensure full public participation and consideration of issues related to such decisions, including impacts on policies calling for compact urban form, preservation of agricultural lands surrounding the city for long term agricultural use, and provisions of an adequate housing supply to meet internal needs of the city. This policy and the land use designations affected by this policy shall remain in effect in the General Plan or any update to the General Plan until December 31, 203020~~2020~~ or as long as the Citizens' Right to Vote on the Future of Agricultural and Open Space Lands Ordinance remains in effect.

¹ (a) The property known as Covell Center, or any portion of said property, bordered by Covell Boulevard on the south, the Hunt property and County Road 101A on the west, County Road 102/Pole Line Road on the east, and the southern edge of the City-owned property and extending to F Street on the north as shown on the Land Use Map (Exhibit A).

(b) The Nishi property, or any portion thereof, the boundaries of which are established in the Gateway/Olive Drive Specific Plan, dated January, 1996 (Exhibit B).

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This policy is intended to assure full participation in land use decisions by the citizens and voters of the City, including but not limited to public debate and a vote of the people, and to assure that the principles set forth in the General Plan relating to land use, affordable housing, open space, agricultural preservation and conservation and the like are fully implemented.”

Section 2. ~~Intentionally deleted. The City of Davis General Plan Land Use Element is hereby amended to modify the numbering of the following Implementing Policy, to Policy LU 1.3.a and to correct the reference to the Guiding Policy, to read as follows:~~

~~A. Prepare and implement the requirement for a citizen voter approval process set forth in Guiding Policy LU 1.3.~~

Section 3. ~~Chapter 41, Article 1 of Article 40.41~~ the Davis Municipal Code is hereby amended ~~to recodify the article as Chapter 41, Article 1 and to make amendments~~ as follows:

Chapter 41

Citizens’ Right to Vote on Future Use of Open Space and Agricultural Lands Ordinance

Article 1.

Section 41.01.000 Title:

This article shall be known as the “Citizens’ Right to Vote on Future Use of Open Space and Agricultural Lands Ordinance.”

Section 41.01.010 Purpose and Findings:

A. Purpose.

The purpose of this article is to establish a mechanism for direct citizen participation in land use decisions affecting City policies for compact urban form, agricultural land preservation and an adequate housing supply to meet internal City needs, by providing the people of the City of Davis the right to vote, without having to evoke referenda, on General Plan land use map amendments that would convert any agricultural, open space, or urban reserve lands, as designated on the Land Use Map of the City of Davis General Plan, dated August 1, 1999, to an urban or urban reserve land use designation and on any development proposal on the Covell Center or Nishi properties.

The purpose of this article is to ensure that the purposes and principles set forth in the City of Davis General Plan relating to voter approval, land use, affordable housing, open space, agricultural preservation and conservation are fully considered by establishing an expanded land use entitlement process for proposed conversion of properties to urban use that are designated or in agricultural or open space use. This action recognizes that continued

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conversion of agricultural lands to meet urban needs is neither inevitable nor necessary, and that any land use decision affecting such properties shall be subject to a public vote.

B. Findings.

The City Council and the voters of the City hereby incorporate all of the recitals set forth above and, in addition, find that:

1. The protection of existing agricultural and open space lands, natural habitats and reserves surrounding the City of Davis, and within the Davis Planning Area, is of critical importance to the present and future residents of the City of Davis. Agriculture has been and remains a major contributor to the local and regional economy, directly and indirectly creating employment for many people, and providing valuable food crops distributed worldwide.

2. Continued urban encroachment into agricultural and open space lands, natural habitats and reserves impairs agriculture and threatens the public health, safety, and welfare by causing increased traffic congestion, associated air pollution, and potential adverse impacts to the quantity and quality of available water resources. Continued urban encroachment into agricultural lands also requires significant new public infrastructure and facilities and places additional stresses on existing public infrastructure and facilities.

3. The unique character of the City of Davis and the quality of life enjoyed by City residents depend on the protection of agricultural, open space lands, and natural habitats and reserves on its periphery. The protection of such lands aids the continued viability of agriculture, defines urban/rural boundary, and brings mental and physical benefits from the broad vistas at the urban edge onto open space and agricultural lands. It also contributes to the protection of wildlife including rare, endangered, or threatened species, environmentally sensitive areas, and irreplaceable natural resources.

4. The General Plan contains policies for compact urban form, and protection of agricultural lands from urban development including a policy that prohibits new urban development on open space and agricultural lands. The General Plan further calls for the use of all available mechanisms to preserve open space and agricultural lands and provides for the implementation of growth management systems.

5. The City has actively promoted both the preservation of agricultural lands and habitat and the availability of affordable housing within the City through the existing policies in the City's General Plan and the City's implementing activities, including, but not limited to, the Right-to-Farm ordinance, the City's acquisition of open space, agricultural lands and habitat, the City's participation in the agricultural lands stewardship program, the City's affordable housing ordinance, ~~the redevelopment plan and the redevelopment pass-through agreement~~ and other city programs and policies designed to promote agricultural preservation and/or affordable housing.

6. This citizens' right to vote on future use of open space and agricultural lands ordinance implements the General Plan and is consistent with the City's adopted General Plan and furthers and implements the policies of the General Plan. The City finds that this ordinance

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will provide for a balance between the preservation of agricultural lands and open space and the housing needs of the City.

Section 41.01.020 Voter Approval:

A. Voter approval of changes to land use designations on the Land Use Map from Agricultural or Urban Reserve to Urban land use designations or from Agricultural to Urban Reserve land use designations.

1. Each and every proposed amendment or modification of the Land Use Map to modify the land use designation of lands designated for Agricultural, Open Space or Urban Reserve use on the Land Use Map to an Urban or Urban Reserve designation is a significant change that affects the City and its ability to maintain its vision for a compact urban form surrounded by farmlands and open space. Any such proposal, therefore, requires public participation in the decision, including, but not limited to, voter approval of the proposed amendment or modification of the Land Use Map.

2. Any application for an amendment or modification of the Land Use Map that proposes changing the Land Use Map land use designation for any property from an Agricultural, Open Space, or Urban Reserve land use designation (e.g., agricultural, open space, agricultural reserve, urban reserve, environmentally sensitive habitat, Davis greenbelt) to an Urban land use designation or from an Agricultural designation to an Urban Reserve designation shall require:

(a) Establishment of baseline project features and requirements such as recreation facilities, public facilities, significant project design features, sequencing or phasing, or similar features and requirements as shown on project exhibits and plans submitted for voter approval, which cannot be eliminated, significantly modified or reduced without subsequent voter approval;

(b) Approval by the City Council, after compliance with the California Environmental Quality Act, the State planning and zoning laws and any other applicable laws or regulations; and then

(c) Approval by an affirmative majority vote of the voters of the City of Davis voting on the proposal.

The land use designation amendment or modification shall become effective only after approval by the City Council and the voters. The City shall not submit any application to the voters if the application has not first been approved by the City Council, unless otherwise required by law.

3. If, after compliance with the California Environmental Quality Act and any other applicable laws, the City Council modifies or amends the land use designation for any property from an Urban land use designation to an Agricultural, Open Space, or Urban Reserve land use designation, the land use designation of that property shall not be amended or modified

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from the Agricultural, Open Space, or Urban Reserve designation to an Urban land use designation without first complying with this article, including, but not limited to, the voter approval requirements set forth in subsection A.2., above.

B. Voter approval of development proposals on remaining large vacant properties (Covell Center and Nishi properties) designated for Urban land uses on Land Use Map, dated August 1, 1999.

1. In recognition of the pace and extent of development that has occurred during the first half of the 1987 General Plan planning period, careful consideration shall be given to future use of the remaining two large vacant properties currently designated for urban uses on the Land Use Map that are not subject to a Development Agreement or do not have a vested right to proceed with development of the property.² Key considerations for requiring voter approval prior to development on these two properties are impacts on already overburdened public facilities and infrastructure, long-term preservation of adjoining agricultural lands, preservation of viewsheds and valuable habitat areas, and to ensure that the City maintains a compact and efficient urban form as mandated by General Plan policies. Accordingly, any land use decision that directly affects one or both of these properties, or any portions thereof, including any legislative action, subdivision map application, site plan review, or planned development application, requires full public participation, including an affirmative vote of the people on any City Council action to approve such a request. Specific properties included under these provisions are:

(a) The property known as Covell Center, or any portion of said property, bordered by Covell Boulevard on the south, the Hunt property and County Road 101A on the west, County Road 102/Pole Line Road on the east, and the southern edge of the City-owned property and extending to F Street on the north as shown on the land use map (Exhibit A).

(b) The Nishi property, or any portion thereof, the boundaries of which are established in the Gateway/Olive Drive specific plan dated January, 1996 (Exhibit B).

2. Any application for a development proposal or land use change leading to urban development on all, or any portion of either of these properties shall require:

(a) Establishment of baseline project features and requirements such as recreation facilities, public facilities, significant project design features, sequencing or phasing, or similar features and requirements as shown on project exhibits and plans submitted for voter approval, which cannot be eliminated, reduced or significantly modified without subsequent voter approval;

(b) Approval by the City Council, after compliance with the California Environmental Quality Act, the state planning and zoning laws and any other applicable laws or regulations; and then

² Voters approved a development on the Nishi property in 2018. As of November 2020, this project had not yet been built. References to the Nishi property remain in Measure J to retain the community's right to vote on any future development proposals on this property (should the project approved by voters does not get built).

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(c) Approval by an affirmative majority vote of the voters of the City of Davis voting on the proposal.

The land use entitlements for development on all, or any portion of either of these properties shall become effective only after approval by the City Council and the voters. The City shall not submit any application to voters if the application has not first been approved by the City Council, unless otherwise required by law.

3. Voter approval of an application applicable to one or both of the above properties shall be required for:

(a) Any land use entitlement or development proposal application request affecting the entire property; except a request that would change the land use designation to an Agricultural land use designation;

(b) Any land use entitlement request for the development of a portion of the property.

C. Once the voters have approved a land use map designation or land use entitlement for a property, additional voter approval shall not be required for:

1. Subsequent entitlement requests that are consistent with the overall approved development project or land use designation and entitlements including the baseline project features and required provision of open space, recreational amenities, design features and public facilities, as specified in the exhibits and plans approved by the voters.

2. Any requested modification to a land use designation or development project entitlement that does not increase the number of permitted dwellings or units or the intensity of commercial/industrial development and does not significantly modify or reduce the baseline project features and required provision of open space, recreational amenities, design features and public facilities, as specified in the exhibits and plans approved by the voters. The City Council may adopt procedures for the hearing of a request for modification.

Section 41.01.030 Exemptions:

The requirement for voter approval set forth in this article shall not apply to any of the following:

A. Land to be used for public schools, except should such land be deemed not needed for public school purposes, any proposal to convert such land for urban use shall be subject to the voter approval requirements of this Article.

B. Land to be used for public parks, except should any such land be deemed not needed for public park purposes, any proposal to convert such land to urban use shall be subject to the voter approval requirements of this Article.

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C. Other City facilities that require large acreage that cannot feasibly be located on lands designated for urban uses (e.g., a sewer treatment facility, solid waste disposal facility, corporation yard, etc.).

D. Any re-designation of the parcel immediately north of Sutter Davis Hospital designated Urban Reserve on the Land Use Map, after compliance with the California Environmental Quality Act and other applicable laws, for use as medical facilities or medical offices and uses subordinate or accessory to medical facilities or medical offices.

E. After notice and hearing as required by State law and after compliance with the California Environmental Quality Act, the City Council may, without a vote of the electorate of the City, approve residential development on land designated Agriculture, Agriculture Reserve or Urban Reserve if the City Council finds that all of the following circumstances exist:

1. The approval is necessary and required to meet the City's legal fair share housing requirement ~~and/or the city's growth rate under the redevelopment pass-through agreement;~~

2. There is no other land already designated for urban use that can accommodate the City's legal fair share housing requirement ~~and/or redevelopment pass-through agreement growth rate;~~ and

3. Not more than five acres per year in total area is designated under this exemption for residential development. Additional acreage may be designated under this exemption if the City Council finds that the acreage is necessary to meet the City's legal fair share obligation based on maximum multifamily densities.

Any proposal approved under this subsection shall be required to have all housing units permanently affordable to persons or families of moderate, low and very low income.

The intent of this exemption is to provide sufficient land for housing to accommodate moderate, low and very low-income housing ~~and to accommodate the requirements of the pass-through agreement,~~ as may be necessary over time.

F. Any development project that has obtained a vested right pursuant to State law prior to March 8, 2000, the effective date of Ordinance 2008 adopting Measure J.

Section 41.01.040 Definitions:

As used herein, the following words and phrases shall have the following meanings:

A. "Agriculture and open space land use designation," "agricultural land use designation" or "urban reserve land use designation" shall refer to the 1987 General Plan land use designations and the uses permitted within these land use designations that provide for

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agricultural or open space uses, including, but not limited to, agriculture, agriculture reserve, agricultural open space, environmentally sensitive habitat area, greenbelt/agriculture buffer, or urban reserve as they exist on August 1, 1999, in particular:

1. “Agricultural Reserve” means agricultural lands designated as permanent agriculture. This designation is used in areas to ensure a permanent buffer between adjacent jurisdictions.
2. “Agricultural Open Space” means lands in agricultural use and land designated to protect valuable natural resources.
3. “Agricultural uses” include farmlands (including farmhouses and farm buildings) and land to be used for the production of food and fiber. Residential and non-residential uses that preclude agricultural uses are prohibited.
4. “Urban Reserve” means land designated for potential urban development after the development of land designated for urban uses on the General Plan Land Use Map.

It is the intent of the Agricultural and Open Space land use designations to protect valuable natural resources such as agricultural land and natural habitat, to allow for productive agricultural use, to ensure a permanent buffer between adjacent jurisdictions and to serve as a visual amenity around urban development. It is further the intent of these land use designations to preserve existing wildlife habitat and develop new wildlife habitat. Wildlife preserves, low intensity recreation, nature study and interpretive centers are permissible uses if the particular use is compatible with agricultural and/or habitat uses.

B. “General Plan land use map,” “General Plan map” or “Land Use Map” specifically refers to the land use map from the 1987 City of Davis General Plan, as amended through August 1, 1999 ([Exhibit A](#)).

C. “Affordable to moderate and very low-income persons or families” shall have the same meaning and income levels as those used in the City’s affordable housing ordinance, Article 18.05 of the City’s Municipal Code, or as used by the United States Department of Housing and Urban Development.

D. “Urban Use” or “Urban Land Use Designation” refers to any land use designation that permits development, including, but not limited to, any residential use (with a density greater than one unit per twenty (20) gross acres), retail, office, highway/service commercial, recreational/commercial, business parks, public/semi-public, industrial, or other non-open space or non-agricultural use characteristic of urban development.

E. “Significantly” or “significantly changed or modified” means that the proposed change or modification materially alters the essential characteristics of the project or the baseline feature or requirement.

Section 41.01.050 Elections:

Attachment 1 Proposed Ordinance

A. Except for the renewal or repeal of this Article pursuant to Section 4 of Ordinance No. ~~23502008~~ and this Ordinance, any direct or indirect costs to the City of Davis caused by the elections mandated by this Article shall be borne by the applicants of the amendment of the General Plan land use map designation or other development proposal requiring the election, unless otherwise prohibited by State law.

B. Elections mandated by this Article shall be consolidated with other elections, whenever feasible. Different proposals may appear on the same ballot at the same election provided that each separate proposal affecting a discrete property or development project shall be submitted to the voters as a separate measure.

Section 4. Effective Date, Duration; Renewal.

A. The effective date of Ordinance 2008, including the amendment to the General Plan included herein and the Citizens' Right to Vote on Future Use of Open Space and Agricultural Lands Ordinance, is March 8, 2000, (the "effective date"). Ordinance 2008 was amended and extended by Ordinance 2350 in 2010. Ordinance ~~23502008~~, shall be amended and extended by this Ordinance, which shall be effective on November 3, 2020~~June 8, 2010~~ or such later date that this Ordinance is approved by a majority of the voters voting on this Ordinance.

B. Ordinance ~~23502008~~, as amended and extended by this Ordinance, shall remain in effect until December 31, 20~~3020~~3020, unless modified or repealed earlier by the voters of the City by majority vote. On a regularly scheduled election date prior to December 31, 20~~3020~~3020, the City Council shall submit the provisions of this Ordinance to the voters of the City for renewal, amendment or repeal.

Section 5. Amendment or Repeal.

This Ordinance shall be submitted to the voters of the City at an election called to be held on November 3, 2020~~June 8, 2010~~. Upon approval by the voters, this Ordinance shall remain in effect as set forth in Section 4, above. This Ordinance may be amended or repealed only by the voters of the City of Davis at an election held in accordance with State law.

Section 6. Severability.

If any word, sentence, paragraph, subparagraph, section, subsection or portion of this Ordinance is declared unconstitutional or otherwise in violation of State or Federal law by a court, the remaining words, sentences, paragraphs, subparagraphs, sections, subsections or portions are to remain valid and enforceable.

INTRODUCED on the ____ day of June, 2020, and PASSED AND ADOPTED by the City Council of the City of Davis on the ___ day of June, 2020 by the following vote:

**Attachment 1
Proposed Ordinance**

AYES:

NOES:

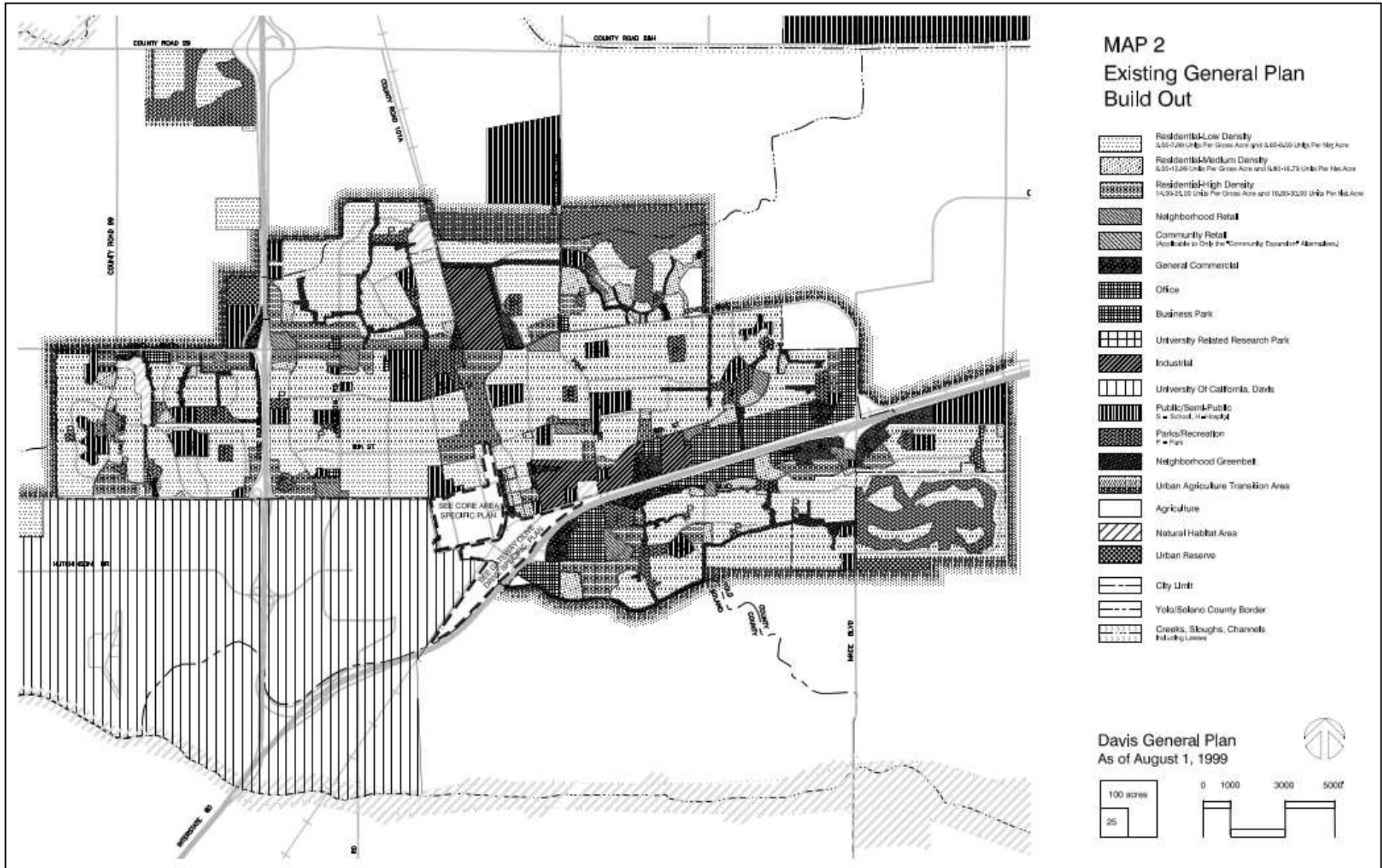
Brett Lee
Mayor

ATTEST:

Zoe Mirabile
City Clerk

Submitted to the voters on November 3, 2020. Passed and adopted by the voters on _____.

**Attachment 1
Proposed Ordinance
Exhibit A**



**Attachment 1
Proposed Ordinance**

Exhibit B

