

# **Appendix A**

---

**Notice of Preparation and Responses**



**COUNTY OF MERCED  
NOTICE OF PREPARATION OF  
A SUBSEQUENT ENVIRONMENTAL IMPACT REPORT  
AND PUBLIC SCOPING MEETING  
FOR AMENDMENT TO THE UNIVERSITY COMMUNITY PLAN AND  
THE VIRGINIA SMITH TRUST SPECIFIC PLAN PROJECT**

**Date:** January 14, 2022

**To:** State Clearinghouse, Responsible and Trustee Agencies, Interested Parties, and Organizations

**Subject:** Notice of Preparation of a Draft Subsequent Environmental Impact Report and Public Scoping Meeting for Amendment to the University Community Plan and the Virginia Smith Trust Specific Plan Project, Merced County, California

**Lead Agency:** County of Merced  
Community and Economic Development Department  
2222 M Street, 2<sup>nd</sup> Floor  
Merced, CA 95340  
(209) 385-7654

**Contact:** Tiffany Ho, Planner III  
Community and Economic Development Department  
2222 M Street, 2<sup>nd</sup> Floor  
Merced, CA 95340  
(209) 385-7654 x4407  
Tiffany.Ho@countyofmerced.com

**Comment Period:** January 14, 2022 – February 14, 2022

## **PURPOSE OF NOTICE**

Merced County (hereafter the County) is proposing to update the 2004 University Community Plan (Adopted UCP) located in the eastern portion of Merced County, just south of the University of California (UC), Merced campus. The proposed plan update would remove a portion of the UCP area owned by UC Merced from the County's UCP, expand the UCP area east to align with current land ownership, and update the land uses proposed within the 654-acre Virginia Smith Trust (VST) Specific Plan that would comprise the northern portion of the revised UCP. As the lead agency, the County will prepare a focused Subsequent Environmental Impact Report (SEIR) for the UCP amendments and VST Specific Plan. The County is issuing this Notice of Preparation (NOP) per Section 15082 of the California Environmental Quality Act (CEQA) Guidelines. The focused SEIR will tier from the certified 2004 UCP EIR (SCH # 2001021056) and will evaluate whether the proposed changes to the UCP would result in new or substantially more severe significant impacts.

The purpose of this NOP is to provide agencies, interested parties, and organizations with sufficient information describing the proposed updates to the UCP and VST Specific Plan and the potential environmental effects to enable meaningful input on the scope and content of environmental information to be included in the SEIR. The SEIR will evaluate the potential direct, indirect, and cumulative environmental impacts and identify feasible mitigation measures or alternatives that may lessen or avoid any significant impacts.

## PUBLIC REVIEW PERIOD AND SCOPING MEETING

This NOP is available for public review and comment for 30 days beginning January 14, 2022. The County will hold a public scoping meeting to inform interested parties about the proposed updates to the UCP and VST Specific Plan and provide agencies and the public with an opportunity to submit comments on the scope and content of the environmental information to be included in the SEIR. In response to COVID-19, the public scoping meeting will be conducted virtually and in-person on January 20, 2022, at 9:00 a.m.

To register for virtual attendance (computer or phone) visit:

[https://us06web.zoom.us/webinar/register/WN\\_izRQoMouS36\\_93cX\\_-iqMQ](https://us06web.zoom.us/webinar/register/WN_izRQoMouS36_93cX_-iqMQ)

Physical Venue:

Merced County Main Administration Building  
Merced Conference Room  
2222 M Street, Basement  
Merced, CA 95340

Any interested person may appear at the public hearing virtually, by either Zoom meeting or telephone, or in-person. If you have any questions regarding the scoping meeting, contact Tiffany Ho at (209) 385-7654 x4407 or [Tiffany.Ho@countyofmerced.com](mailto:Tiffany.Ho@countyofmerced.com).

## PROVIDING COMMENTS ON THIS NOTICE OF PREPARATION

Comments and suggestions as to the appropriate scope of analysis in the SEIR are invited from all interested parties. Written and/or email comments or questions concerning the SEIR should be directed to the County's project manager at the following address.

Tiffany Ho, Planner III  
Community and Economic Development Department  
2222 M Street, 2<sup>nd</sup> Floor  
Merced, CA 95340  
(209) 385-7654 x4407  
[Tiffany.Ho@countyofmerced.com](mailto:Tiffany.Ho@countyofmerced.com)

Comments should be provided at the earliest possible date but must be received by **5:00 p.m. on February 14, 2022**. Please include the commenter's full name and address. Copies of this NOP may be reviewed in the Community and Economic Development Department at the address provided above.

## Focus of Input

Comments and suggestions provided during the NOP public review process should focus on the following topics:

- ▶ **Scope of Environmental Analysis.** Guidance on the scope of analysis for this SEIR, including identification of specific issues that will require closer study due to the location, scale, and character of the UCP amendments and VST Specific Plan.
- ▶ **Mitigation Measures.** Ideas for feasible mitigation measures, including mitigation that could be imposed by the County as CEQA lead agency and that would avoid, minimize, or reduce potentially significant impacts of the UCP amendments and VST Specific Plan.
- ▶ **Alternatives.** Suggestions for alternatives to the proposed UCP amendments and VST Specific Plan that could avoid or substantially lessen potentially significant impacts.
- ▶ **Interested Parties.** Identification of public agencies, public and private groups, and individuals that the County should notice regarding the proposed UCP amendments, VST Specific Plan, and accompanying SEIR.

## PROJECT LOCATION

The UCP plan area is located in unincorporated Merced County just northeast of the City of Merced (hereafter the City) and within the City's sphere of influence (Figure 1). As amended through the proposed changes, the UCP would include the VST Specific Plan property and the UCP South. The VST plan area is bounded generally by Lake Road on the west, UC Merced property (specifically the proposed UC Merced Campus Expansion Area) to the north, Cardella Road on the south, and the Orchard Drive alignment on the east. The UCP South is bound by Lake Road to the west, Cardella Road to the north, Yosemite Avenue to the south, and the Fairfield Canal to the east.

## EXISTING SETTING

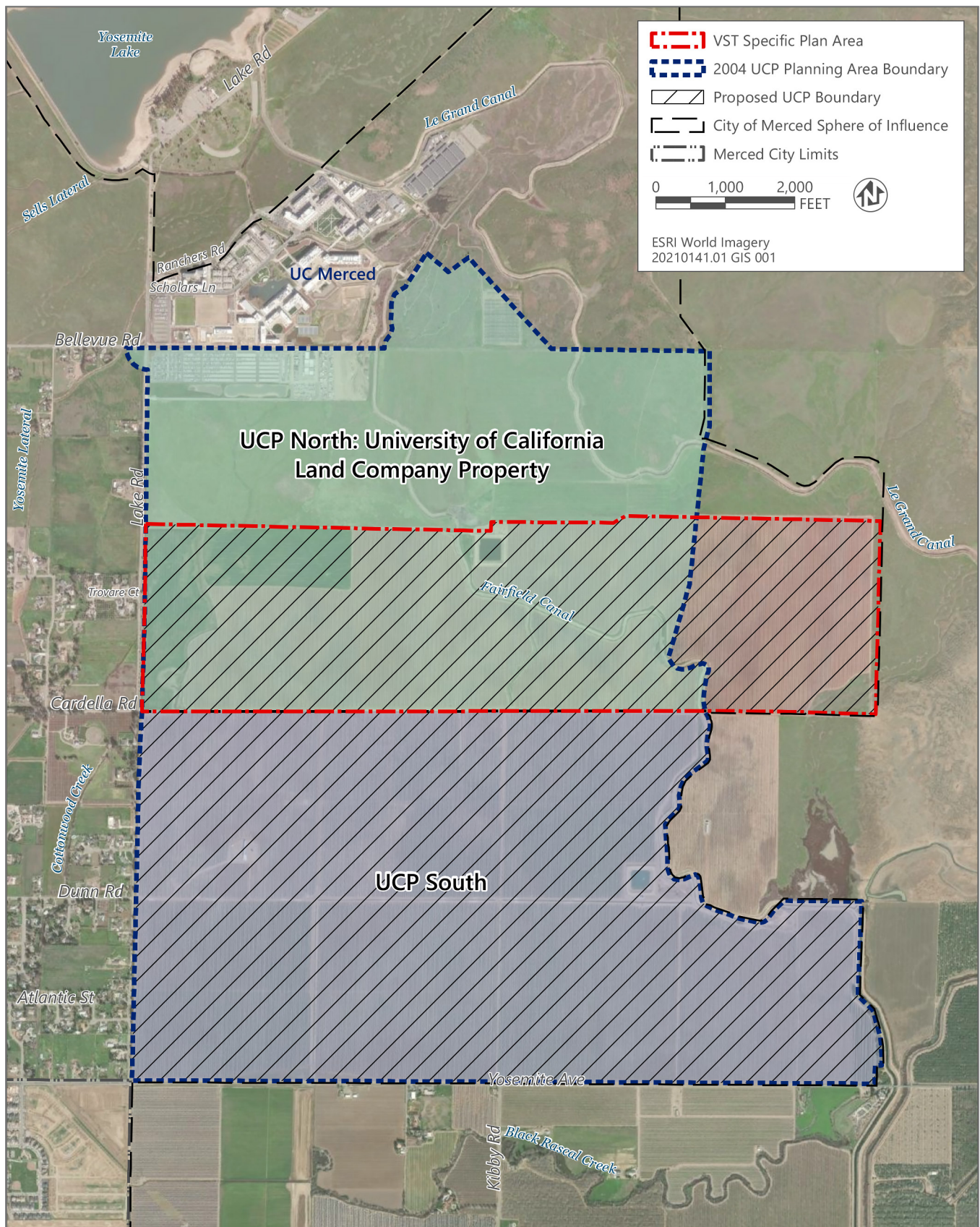
The UCP area is currently used for agriculture. In addition to the UC Merced campus to the north, existing land uses surrounding the VST plan area include a ranchette-style single-family rural residential development west of Lake Road, and grazing land to the east. Approximately 554 acres of the VST plan area are currently planted in almond orchards. An irrigation basin and associated utility/maintenance structures are located on the northern-central portion of the site just east of the Fairfield Canal. Aside from structures associated with the basin, there are no buildings within the VST plan area. The UCP South is also used for agricultural activities, including tree crops and a residence.

The Adopted UCP designates land within the UCP plan area in three categories, from north to south: the area north of Cardella Road is designated as Multiple Use Urban Development, the area between Cardella Road and Dunn Road is designated Urban Reserve, and the area south of Dunn Road to Yosemite Road is designated as Agriculture. The area has retained agricultural zoning. The UCP does not convey development entitlements but establishes the policy and programmatic framework to guide preparation of subsequent plans, including subdivision maps.

## PROJECT BACKGROUND

The Adopted UCP involved cooperation between the City, County, State and numerous local stakeholders. When the UCP was prepared in 2004, it included land owned by the University of California Land Company LLC (UCLC), a joint venture between VST and the UC Regents. The UCLC has since dissolved, with UC Merced and VST obtaining discrete land ownership.

The long-term vision for UC Merced and the adjacent, supporting property is annexation into the City. An annexation agreement, first established in 2003, has been maintained to facilitate the eventual annexation of UC Merced. However, annexation of UC Merced had not been permissible pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 because the UC Merced campus is not contiguous with the incorporated city. Assembly Bill (AB) 3312, passed in 2020, allows the City to annex the UC Merced campus along a road strip (Bellevue Road or Lake Road) without the adjoining properties between UC Merced and the city limits. In February 2021, the Merced City Council directed City staff to proceed with the annexation of the UC Merced campus to the City under the terms of AB 3312. If UC Merced is annexed into the City of Merced, the UCP would be eligible for annexation because the northern boundary is contiguous to the university.



Sources: Data downloaded from Merced County in 2020

Figure 1 Existing and Proposed University Community Plan Boundary

## PROJECT DESCRIPTION

### University Community Plan Update

The UCP supplements the goals, objectives, and policies of the County of Merced General Plan to reflect the unique issues, planning vision, and objectives for development of the University Community. The proposed update to the Adopted UCP would modify the UCP boundary; revise the policy plan to reflect current conditions, regulations, and best practices; and update the land use and circulation diagram to reflect the land uses proposed within the VST Specific Plan and establish the alignment of Campus Parkway through the VST plan area to its ultimate connection to Bellevue Road to complete the eastern side of the Merced-Atwater perimeter expressway. The project would also result in an update to the Circulation Element of the General Plan to include the revised alignment of Campus Parkway, both within and outside of the UCP.

The UCP would be revised to include the current boundary of the VST Specific Plan and the UCP South (468.7 acres of property owned by UC Merced would be removed and 176.76 acres would be added to the UCP to encompass the full VST Specific Plan). The land use diagram for UCP South would not change except to revise roadway alignments. Based on preliminary calculations of the anticipated amendment, the total number of dwelling units in the UCP would decrease, from 11,616 to 9,680, and the potential amount of non-residential development would decline from 2,022,900 square feet to 1,246,150 square feet due to changes proposed in the VST Specific Plan area and the revision to the UCP boundaries. In total, the UCP area would be 1,841 acres.

### VST Specific Plan

The newly proposed specific plan re-envision the portion of the UCP owned by VST so that it would be more responsive to expected market conditions, while preserving the basic UCP plan components: commercial uses, the town center concept, and relatively high-density housing. The specific plan would revise density and intensity of these uses compared to the Adopted UCP. It would also adjust timing and phasing for installation of parks and public services to appropriately meet demand. Transportation facilities, including roads and bike paths, would be reconfigured in the specific plan to better serve the project and existing and planned surrounding land uses. Finally, with the passage of AB 3312, VST is now seeking annexation into the City.

## PROPOSED LAND USES

The VST Specific Plan builds on the urban design concepts outlined in the Adopted UCP. The plan includes a Town Center, a mixed use commercial/service area zone for approximately 275,000 square feet of building area that is adjacent to the UC Merced property; a transitional commercial/retail/office zone for approximately 100,000 square feet of building area; a retail/office/residential mixed use zone that includes approximately 200,000 square feet of building area from smaller office, restaurant, retail and commercial services and up to 108 second- and third-floor residential uses; and retail shopping centers ranging in size from two 50,000 square foot Village Commercial centers to a 170,000 square foot Community Commercial shopping center. The VST Specific Plan is broken down into 160-acre villages, each with commercial services and a full range of housing from apartments to lower density single family units. Average density for single-family residential development would be 6.2 units per gross acre, and the average density for multifamily units would be 25 units per gross acre. This conforms with land use policies in the Adopted UCP. Figure 2 shows the conceptual land use plan.

### Residential

The housing products allowed under the specific plan's various residential designations include "R-1 Low" housing units averaging 3,250 square feet on lots of 12,500 square feet or greater near the edges of the VST plan area, to smaller 775-square foot units in the Town Center over retail and service uses, as well as a wide variety of housing types and sizes in between. The specific plan includes a total of 3,917 residential units on over 400 acres.

Implementation of the VST Specific Plan is projected to generate over 10,700 new residents (nearly 6,600 in Phase 1 and over 4,100 in Phase 2).

## Commercial

The VST Specific Plan includes a mix of commercial uses to serve UC Merced students and staff, VST plan area residents, and future residents of the UCP South area. Proposed retail uses include Mixed-use, Neighborhood Commercial/Retail, and Community Commercial. Development of these uses would result in an estimated 587,000 square feet of floor area and would cover over 30 acres in the VST plan area, which accounts for over 80 percent of the land designated for commercial uses. The remaining commercial uses include Hotel/Office, which would result in an estimated 275,000 square feet of floor area and would cover over 7 acres. The amount of hotel/office uses is a substantial reduction from that assumed in the Adopted UCP, which assumed over 1.3 million square feet of such uses.

## Parks and Recreation

The Specific Plan identifies more than 74 acres for parks and recreation. As shown in Figure 2, the parks would be distributed across the VST plan area. There would be a larger number of smaller parks dispersed evenly throughout the medium-density residential uses, and a few larger parks, including a sports complex, located in the lower-density areas. Three roughly 6-acre community parks would provide for recreational uses including organized sports facilities, court games, community gardens, and dog parks. In addition, an east-west and a north-south linear park system would be created that would run along the south side of Virginia Smith Parkway (the midline of the property) and Fairfield Canal. Private parks and recreation facilities are provided in the R-3 and R-4 areas at a rate of 1.5 acres per 1,000 people, and clubhouse and recreation centers for any developments over 150 units. Parks would be spaced so that all residential units are within a 500-foot walking distance of a park space.

## Schools

Approximately 15 acres are reserved at the southeast corner of Kibby Road and Virginia Smith Parkway for a future elementary school. The VST plan area is currently split by the Weaver and Merced City School Districts for elementary schools. It is anticipated that the jurisdictions would be revised so that the entire VST plan area would be in the Weaver School District. The VST plan area would also be served by Merced Union High School District, and future students would attend El Capitan High School.

## INFRASTRUCTURE

New infrastructure that would be installed to support the development associated with the VST Specific Plan includes a backbone roadway network (including bicycle and transit facilities); a stormwater drainage system; water distribution mains; sewer trunk lines; and offsite water, sewer and transportation improvements. In addition, offsite upgrade of infrastructure would be required. Because the project anticipates annexation into the City, all utilities and services would be designed to City standards assuming city-provided services.

## CONSTRUCTION SCHEDULE

The VST Specific Plan would be implemented in two primary phases. Phase 1 includes five subphases (1A through 1E), while Phase 2 does not include subphases. Buildout is anticipated over a 15- to 20-year period, based on the projected market absorption, with construction associated with Phase 1A anticipated to begin in 2025. Construction access to the VST plan area would be primarily Lake Road to Yosemite Avenue, then east to Campus Parkway (65 percent; or Lake Road to Bellevue Road then west (35 percent). Construction would not require any pile driving, blasting with explosives, or boring.



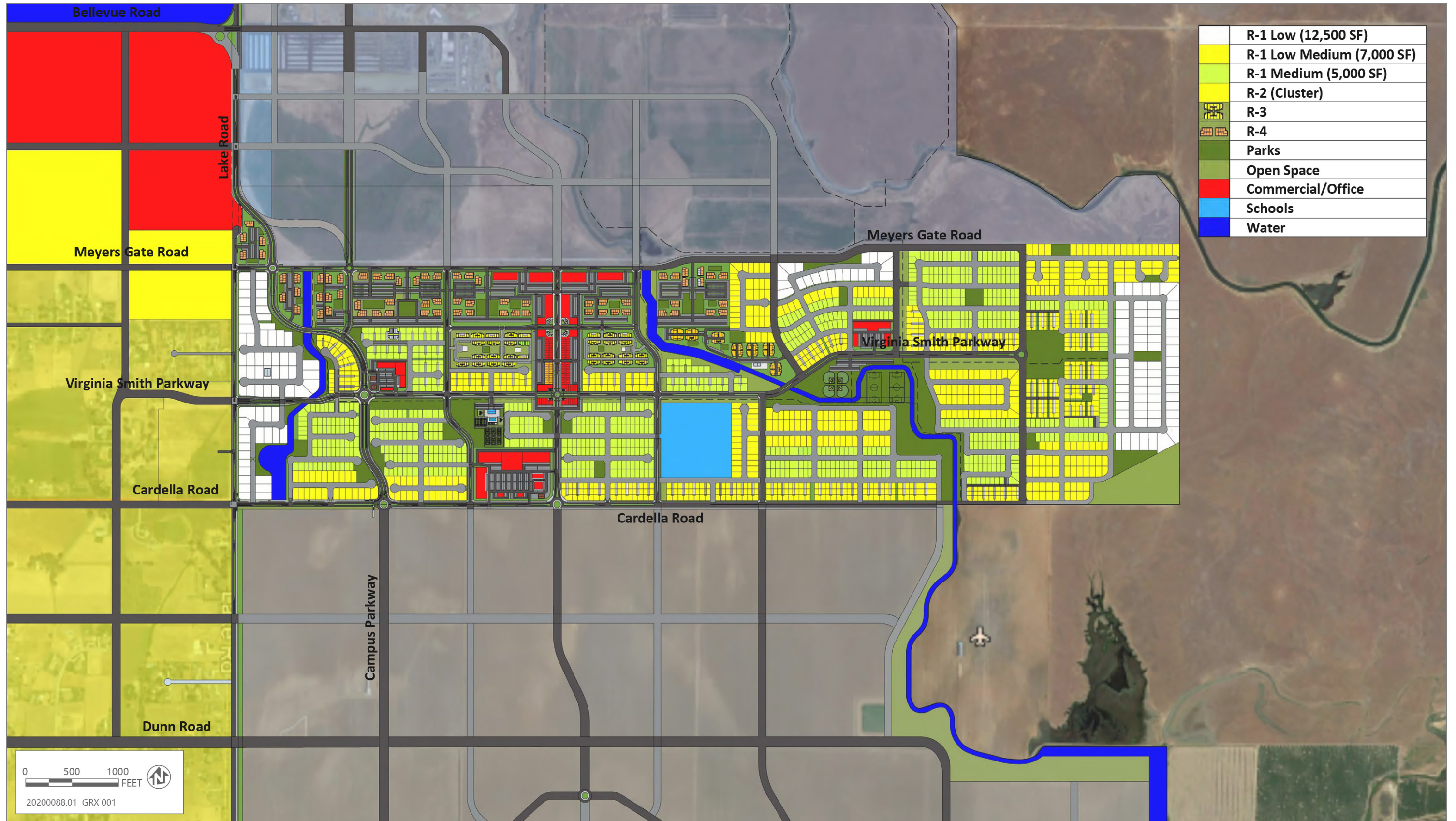


Figure 2 VST Specific Plan Land Use Diagram

## POTENTIAL APPROVALS AND PERMITS REQUIRED

The following is a list of approvals and/or permits that may be required to implement the proposed project.

### County of Merced

- ▶ Certification of SEIR
- ▶ Adoption of Mitigation Monitoring and Reporting Program
- ▶ Adoption of findings and any statement of overriding considerations
- ▶ General Plan Amendment
- ▶ Community Plan Amendment
- ▶ VST Specific Plan approval

### Merced County Local Agency Formation Commission

- ▶ Interim Out of Boundary Service Agreement (if necessary)
- ▶ Annexation of the VST Specific Plan area into the City of Merced

### City of Merced

- ▶ General Plan Amendment
- ▶ Pre-annexation agreement
- ▶ Development agreement
- ▶ Tentative Subdivision Map approval for subphases 1A-1E

## POTENTIAL ENVIRONMENTAL EFFECTS

The County has concluded that the proposed modifications to the Adopted UCP and implementation of the VST Specific Plan may result in new or substantially more severe significant effects than disclosed in the previously certified EIR. As such, the County has determined that an SEIR is required. The SEIR will describe existing conditions and evaluate the potential environmental effects of the revised UCP and VST Specific Plan and a reasonable range of alternatives to the proposed plan, including the no-project alternative. The SEIR will address direct, indirect, and cumulative effects and will also discuss potential growth-inducing impacts. In accordance with CEQA Guidelines Section 15162, the evaluation of potential environmental effects in the SEIR will focus on whether the UCP amendments or VST Specific Plan would result in any new or substantially more severe significant impacts compared to the certified 2004 UCP EIR. Lastly, the SEIR will identify feasible mitigation measures, if available, to reduce potentially significant impacts of the proposed changes. At this time, the County has determined that the UCP amendments and VST Specific Plan could result in new or substantially more severe significant effects on the resource areas described below. Other environmental resources will be discussed at a lesser level of detail to substantiate the determination that no new or more severe impacts would occur.

### Air Quality

This section of the SEIR will evaluate whether additional emissions would occur under the updated UCP and VST Specific Plan that were not evaluated in the certified 2004 UCP EIR and will identify any revisions to mitigation measures or additional mitigation measures that would be necessary to avoid or reduce impacts.

### Biological Resources

Changes to land cover and habitat conditions within the UCP plan area have occurred since certification of the 2004 UCP EIR. This section of the SEIR will evaluate whether the proposed updates to the UCP and the VST Specific Plan would result in any new or more severe significant impacts to special-status species and/or habitat beyond those identified in the 2004 UCP EIR and would identify any necessary mitigation measures to avoid or reduce impacts.

## Greenhouse Gas Emissions and Energy

This section of the SEIR will include a quantitative analysis of greenhouse gas emissions from all sectors (e.g., building energy, mobile, water and wastewater, solid waste) to assess the potential for construction- and operation-related greenhouse gas impacts. This section of the SEIR will identify any revisions to mitigation measures or additional mitigation measures that would be necessary to avoid or reduce impacts.

## Hydrology and Water Quality

This section of the SEIR will evaluate the proposed modification of the Fairfield Canal and Dunn Lateral. Additionally, the SEIR will determine if there is a potential for the UCP update and VST Specific Plan to impede sustainable management of the groundwater basin or be inconsistent with the Merced Groundwater Subbasin Groundwater Sustainability Plan. The SEIR will identify and recommend any additional feasible mitigation measures deemed necessary to avoid or reduce new or more severe significant hydrology and water quality impacts.

## Noise and Vibration

This section of the SEIR will evaluate the potential for new stationary sources of noise and areawide noise sources to result in impacts beyond those identified in the 2004 UCP EIR. The noise evaluation will provide any necessary updates to the existing noise and vibration conditions. The SEIR will identify any additional mitigation measures necessary to avoid or reduce new or more severe significant noise impacts.

## Transportation

Senate Bill 743, which took effect on July 1, 2020, eliminated the use of automobile delay/level of service under CEQA and identified vehicle miles traveled as generally being the most appropriate measure of evaluating transportation impacts (CEQA Guidelines section 15064.3). The SEIR will include analysis of vehicle miles traveled in accordance with Senate Bill 743. Additionally, the SEIR will include an evaluation of impacts on current programs, plans, ordinances, and policies addressing the circulation system (including transit, roadway, bicycle, and pedestrian facilities). The SEIR will identify any additional mitigation measures necessary to reduce new or more severe significant transportation impacts.

## Tribal Cultural Resources

Tribal cultural resources were established as a new class of resources under CEQA by AB 52, which became effective on July 1, 2015. Because AB 52 was enacted after certification of the 2004 UCP EIR, impacts on tribal cultural resources were not evaluated in that document. As such, the SEIR will include an analysis of potential tribal cultural resources impacts.

## Utilities and Service Systems

This section of the SEIR will evaluate whether the proposed updates to the UCP and the VST Specific Plan will result in new or substantially more severe impacts on utilities and service systems compared to the 2004 UCP EIR. A Water Supply Assessment will be prepared for the VST Specific Plan and the results will be summarized in the SEIR. If potentially significant impacts related to water supply are identified, the SEIR will identify any feasible mitigation measures to reduce the impact(s). This section will also include an evaluation of the capacity of existing and planned wastewater conveyance systems to receive wastewater generated by the VST Specific Plan. This analysis will also consider the current planning efforts associated with the City of Merced Wastewater Collection System Master Plan Update.



## NATIVE AMERICAN HERITAGE COMMISSION

January 25, 2022

Tiffany Ho  
County of Merced  
2222 M Street, 2<sup>nd</sup> Floor  
Merced, CA 95340

CHAIRPERSON  
**Laura Miranda**  
Luiseño

VICE CHAIRPERSON  
**Reginald Pagaling**  
Chumash

PARLIAMENTARIAN  
**Russell Atebery**  
Karuk

COMMISSIONER  
**William Mungary**  
Paiute/White Mountain  
Apache

COMMISSIONER  
**Isaac Bojorquez**  
Ojibwe-Costanoan

COMMISSIONER  
**Sara Dutschke**  
Miwok

COMMISSIONER  
**Buffy McQuillen**  
Yokayo Pomo, Yuki,  
Nomlaki

COMMISSIONER  
**Wayne Nelson**  
Luiseño

COMMISSIONER  
**Stanley Rodriguez**  
Kumeyaay

EXECUTIVE SECRETARY  
**Christina Snider**  
Pomo

**NAHC HEADQUARTERS**  
1550 Harbor Boulevard  
Suite 100  
West Sacramento,  
California 95691  
(916) 373-3710  
[nahc@nahc.ca.gov](mailto:nahc@nahc.ca.gov)  
[NAHC.ca.gov](http://NAHC.ca.gov)

**Re: 2001021056, Amendment to the University Community Plan and the Virgins Smith Trust Specific Plan Project, Merced County**

Dear Ms. Ho:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b) (CEQA Guidelines § 15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

**Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

## AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
  - a.** A brief description of the project.
  - b.** The lead agency contact information.
  - c.** Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
  - d.** A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
  
- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
  - a.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
  
- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
  - a.** Alternatives to the project.
  - b.** Recommended mitigation measures.
  - c.** Significant effects. (Pub. Resources Code §21080.3.2 (a)).
  
- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:
  - a.** Type of environmental review necessary.
  - b.** Significance of the tribal cultural resources.
  - c.** Significance of the project's impacts on tribal cultural resources.
  - d.** If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
  
- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
  
- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document;** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
  - a.** Whether the proposed project has a significant impact on an identified tribal cultural resource.
  - b.** Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
  - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).

**8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).

**9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).

**10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**

- a.** Avoidance and preservation of the resources in place, including, but not limited to:
  - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
  - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
  - i.** Protecting the cultural character and integrity of the resource.
  - ii.** Protecting the traditional use of the resource.
  - iii.** Protecting the confidentiality of the resource.
- c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
- e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
- f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).

**11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
- b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf)

## SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf).

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
  - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

## NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([http://ohp.parks.ca.gov/?page\\_id=1068](http://ohp.parks.ca.gov/?page_id=1068)) for an archaeological records search. The records search will determine:
  - a. If part or all of the APE has been previously surveyed for cultural resources.
  - b. If any known cultural resources have already been recorded on or adjacent to the APE.
  - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
  - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.

- b.** The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.
- 3.** Contact the NAHC for:
- a.** A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
  - b.** A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
- 4.** Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
- a.** Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
  - b.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
  - c.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:  
[Andrew.Green@nahc.ca.gov](mailto:Andrew.Green@nahc.ca.gov).

Sincerely,



Andrew Green  
Cultural Resources Analyst

cc: State Clearinghouse







UNIVERSITY OF CALIFORNIA, MERCED  
5200 N. LAKE ROAD | MERCED, CA 95343  
(209) 349-2561

February 17, 2022

Tiffany Ho, Planner III  
Merced County  
Community and Economic Development Department  
2222 M Street  
Merced CA 95340

**Subject:** *Notice of Preparation of an EIR for the UCP Update and VST SP Project*

Dear Ms. Ho:

Thank you for providing the University of California Merced (UC Merced) an opportunity to review and comment on the Notice of Preparation (NOP) for the Environmental Impact Report (EIR) that will be prepared by the County for the UCP Update and VST Specific Plan (SP) Project. As the proposed project lies immediately south of the campus, it is in the interest of both the County and UC Merced that the proposed development be compatible with UC Merced's development plans for the campus and that the proposed development does not result in inadvertent environmental and land use effects on the campus. We offer the following comments on the NOP and the scope of the EIR that will be prepared.

### **Understanding of the Project that will be analyzed in the EIR**

Based on our review of the NOP, we understand that the Project is composed of three actions: (1) An update or amendment of the previously adopted UCP involving a change in the boundaries of the UCP to exclude a northerly portion that is now a part of the UC Merced property and extend the UCP to the east to include VST-owned land that was previously not included in the UCP; revise the land use and circulation plan; and update the policies in the UCP; (2) Approve a specific plan for the VST-owned lands within the updated UCP; and (3) Update the County General Plan Circulation Element to revise the alignment of Campus Parkway within the UCP.

### **Comments**

1) The NOP notes that the County will prepare a Subsequent EIR, that will be a focused EIR tiered from the 2004 UCP SEIR. The 2004 UCP SEIR was a supplement to the 2002 UCP EIR and updated only the Hydrology and Water Quality section of the 2002 UCP EIR. The current EIR will need to tier from the 2002 UCP EIR for all resource topics and from the 2004 UCP SEIR for Hydrology and Water Quality.



UNIVERSITY OF CALIFORNIA, MERCED  
5200 N. LAKE ROAD | MERCED, CA 95343  
(209) 349-2561

- 2) As both the 2002 UCP EIR and 2004 UCP SEIR are approximately 20 years old, the current EIR will need to examine the previous analyses closely to ensure that the prior analyses are still valid for the revised UCP.
- 3) Relying on the previous EIRs and updating the program-level analysis with this Subsequent EIR is appropriate for the UCP update. However, we believe the analysis of the environmental impacts of the VST SP must be completed in a Project-level EIR (as opposed to a programmatic analysis).
- 4) Neither the 2002 UCP EIR nor the 2004 UCP SEIR included an evaluation of environmental impacts from the development of the approximately 177 acres of VST-owned land that are being added to the UCP. The current EIR should include a thorough characterization of the existing resources in that area, and the impacts to those resources from the proposed development.
- 5) We concur with the County that an updated detailed analysis is required for the nine environmental topics listed in the NOP. For each of these topics, please ensure that the analysis focuses not just on whether the impacts would be greater or more severe than previously disclosed, but also whether there are any changed circumstances or new thresholds of significance that now apply and whether the impacts would exceed those current thresholds of significance.
- 6) With respect to the remaining eight environmental topics, it will be important that the County fully analyzes the environmental impacts from the development of the additional 177 acres. As noted above, this area was not studied in either of the two previous UCP EIRs, although most of this area (except a small approximately 10-acre area in the southeastern corner) was analyzed in the 2009 UC Merced/UCP EIS/EIR prepared by UC Merced.
- 7) The NOP mentions that the VST SP will be constructed in phases but the graphic does not show the phases. Please include graphics in the EIR that clearly show the project phasing.
- 8) Runoff from the campus currently and in the future will continue to discharge into Cottonwood Creek. The Campus will continue to design and construct stormwater detention facilities to hold runoff such that it does not exceed the amount that currently drains into Cottonwood Creek. Please make sure that the section of Cottonwood Creek within the SP continues to provide drainage capacity for the flows from the campus.
- 9) The VST SP land use diagram shows an approximately 1-acre area in the northeast quadrant of the Lake Road/Meyers Gate Road intersection being developed with housing (R-4) under the SP. That area is part of the campus and not VST property. Please exclude that area from the SP and any housing that was assumed for that area. Also ensure that UC Merced continues to have access to that area.
- 10) The SP also shows future roadways on the campus lands. No such roadways are planned by UC Merced at this time or are foreseeable. While the University anticipates that as the campus grows and the LRDP is updated, future campus roads will be designed to provide connections with development to the south, please make sure the transportation analysis in the EIR assumes that all traffic from the SP area will access Lake



UNIVERSITY OF CALIFORNIA, MERCED  
5200 N. LAKE ROAD | MERCED, CA 95343  
(209) 349-2561

Road only via the intersections at Meyers Gate Road, Virginia Smith Parkway, and Cardella Road, and not via any future intersections of future campus roads with Lake Road.

11) UC Merced is planning to establish an experimental farm as part of its research activities on approximately 45 acres of land in the southern portion of the campus, adjacent to Meyer Gate Road. We will provide the County with the location of the farm so it can consider the farm project when analyzing the compatibility of the proposed SP with adjacent land uses.

While not directly related to the environmental analysis, consistent with the transportation agreements executed between the University and the County and City, it is important that the County enact appropriate development fees for all new development to reimburse the University for any improvements funded by the University that accommodate traffic from that development.

Please let us know if you have any questions regarding our comments. We would like to be informed when the Draft EIR is published for agency and public comment.

Sincerely,

A handwritten signature in cursive script that reads "Phillip Woods".

Phillip Woods  
Director of Physical and Environmental Planning  
UC Merced

Cc:

Luanna Putney, Associate Chancellor & Senior Advisor to the Chancellor  
Patrick Lenz, Interim Vice Chancellor-Chief Operating Officer Physical Operations, Planning and Development  
Fran Telechea, Executive Director, Planning, Design & Construction Management  
Margaret Saunders, Executive Director, Space and Capital Strategies and Real Estate  
Stella Ngai, Chief Campus Counsel  
Stephen Peck, Peck Planning and Development, LLC  
Steve Tietjen, Principal Officer of the Virginia Smith Trust



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
(559) 243-4005  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



February 18, 2022

Tiffany Ho, Planner III  
Merced County Community and Economic Development Department  
2222 M Street, 2<sup>nd</sup> Floor  
Merced, California 95340  
Tiffany.Ho@countyofmerced.com

**Subject: Amendment to the University Community Plan and the Virginia Smith Trust Specific Plan Project (Project)  
Notice of Preparation (NOP)  
SCH No.: 2001021056**

Dear Ms. Ho:

The California Department of Fish and Wildlife (CDFW) received a NOP from the Merced County Community and Economic Development Department for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code. Although the comment period has passed, CDFW would appreciate if you would still consider the following comments.

### **CDFW ROLE**

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation,

---

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Tiffany Ho, Planner III  
Merced County Community and Economic Development Department  
February 18, 2022  
Page 2

protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Merced County

**Objective:** Merced County (County) is proposing to update the 2004 University Community Plan (Adopted UCP). The Adopted UCP involved cooperation between the City of Merced (City), County, State and numerous local stakeholders. Currently, University of California, Merced (UC Merced) and Virginia Smith Trust (VST) have discrete land ownership. Assembly Bill 3312 passed in 2020 and allows the City to annex the UC Merced campus. The proposed plan would remove a portion of the UCP area owned by UC Merced from the County's UCP, expand the UCP area east to align with current land ownership, and update the land uses proposed within the 654-acre VST Specific Plan. As the lead agency, the County will prepare a focused Subsequent Environmental Impact Report (SEIR) for the UCP amendments and VST Specific Plan. The focused SEIR will tier from the certified 2004 UCP EIR (SCH# 2001021056) and will evaluate whether the proposed changes to the UCP would result in new or substantially more severe significant impacts.

The UCP supplements the goals, objectives, and policies of the County of Merced General Plan to reflect the unique issues, planning vision, and objectives for development of the University Community. The proposed update to the Adopted UCP would modify the UCP boundary, revise the policy plan to reflect current conditions, regulations, and best practices, and update the land use and circulation diagram to reflect the land uses proposed within the VST Specific Plan and establish the alignment of Campus Parkway through the VST plan area to its ultimate connection to Bellevue Road to complete the eastern side of the Merced-Atwater perimeter expressway. The

Tiffany Ho, Planner III  
Merced County Community and Economic Development Department  
February 18, 2022  
Page 3

Project would also result in an update to the Circulation Element of the General Plan to include the revised alignment of Campus Parkway, both within and outside of the UCP.

**Location:** The Project site is located in unincorporated Merced County just northeast of the City of Merced and within the City's sphere of influence. The UCP would include the VST Specific Plan property and the UCP South. The VST plan area is bounded by Lake Road on the west, UC Merced property to the north, Cardella Road on the south, and the Orchard Drive alignment on the east. The UCP South is bound by Lake Road to the west, Cardella Road to the north, Yosemite Avenue to the south, and the Fairfield Canal to the east.

**Timeframe:** N/A

## COMMENTS AND RECOMMENDATIONS

The NOP indicates that the SEIR will tier from the certified 2004 UCP EIR (SCH# 2001021056) and will evaluate whether the proposed changes to the UCP would result in new or substantially more severe significant impacts. It is unclear if the modification of the UCP boundary will involve impacts to acreage not included in the previous environmental document. In addition, it is unclear who will be the developer on the Project site.

If the Project includes impacts to new acreage as a result of modification of the UCP boundary not previously included in the certified 2004 UCP EIR, the following list of special status species may need to be addressed in the SEIR. Several special-status plant and animal species that have been documented in the Project area per the California Natural Diversity Database (CNDDDB), include but is not limited to, the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State threatened Swainson's hawk (*Buteo swainsoni*), the State threatened tricolored blackbird (*Agelaius tricolor*), the State fully protected white-tailed kite (*Elanus leucurus*), the State endangered and fully protected bald eagle (*Haliaeetus leucocephalus*), the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the State and federally endangered Harweg's golden sunburst (*Pseudobahia bahiifolia*), the State endangered and federally endangered and federally threatened hairy Orcutt grass (*Orcuttia pilosa*), the State endangered and federally threatened succulent owl's clover (*Castilleja campestris var. succulenta*), the State endangered Colusa grass (*Neostapfia colusana*), and the State species of special concern burrowing owl (*Athene cunicularia*), and western spadefoot toad (*Spea hammondi*). CDFW recommends the SEIR prepared for the Project analyze potential impacts to these species provide measurable mitigation measures that, as needed, will reduce impacts to less than significant levels. More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>).

Tiffany Ho, Planner III  
Merced County Community and Economic Development Department  
February 18, 2022  
Page 4

CDFW is unclear if the proposed development on the Project site will occur through the County, UC Merced, and/or private developers. Currently, UC Merced is the Permittee and authorized entity for development on the Project site under their Incidental Take Permit (2081-2009-010-04). An amendment to the Incidental Take Permit (ITP) may be needed to add permittee(s) or update the ITP's Project description and associated Conditions of Approval. On a similar note, the Project may be subject to notification under Fish and Game Code section 1602, and if UC Merced's Lake or Streambed Alteration Agreement (LSAA) includes activities within the Project site, an amendment to the LSAA may also be needed. Please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593 for more information.

CDFW also recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, California tiger salamander, San Joaquin kit fox, Harweg's golden sunburst, succulent owl's clover, Colusa grass, and vernal pool invertebrates. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground disturbing activities.

CDFW is available to meet with you ahead of draft SEIR preparation to discuss amendments to the existing ITP and/or LSAA, and potential impacts and possible mitigation measures for some or all of the resources that may be analyzed in the SEIR. If you have any questions, please contact Jim Vang, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3203, or by electronic mail at [Jim.Vang@wildlife.ca.gov](mailto:Jim.Vang@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
041A77B10D78486...  
Annee Ferranti for Julie A. Vance  
Regional Manager

cc: Phillip Woods  
University of California, Merced  
Post Office Box 2039  
Merced, California 95344



Tiffany Ho, Planner III  
Merced County Community and Economic Development Department  
February 18, 2022  
Page 5

ec: United States Fish and Wildlife Service  
Patricia Cole; [Patricia\\_Cole@fws.gov](mailto:Patricia_Cole@fws.gov)

CDFW LSA/1600; [R4LSA@wildlife.ca.gov](mailto:R4LSA@wildlife.ca.gov)

University of California, Merced  
Phillip Woods; [pwoods3@ucmerced.edu](mailto:pwoods3@ucmerced.edu)

Tiffany Ho, Planner III  
Merced County Community and Economic Development Department  
February 18, 2022  
Page 6

## **LITERATURE CITED**

CDFW. 2022. Biogeographic Information and Observation System (BIOS).  
<https://www.wildlife.ca.gov/Data/BIOS>.