



## Legislation Text

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File #: 23-1118, Version: 1

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### **TITLE:**

**DISCUSSION REGARDING ENVIRONMENTAL INCOMPATIBILITY OF MODEL AIRCRAFT FLYING FIELD AT FAIRVIEW PARK AND CONSIDERATION OF STAFF'S RECOMMENDATION TO CLOSE THE MODEL AIRCRAFT FLYING FIELD TO PROTECT SENSITIVE AND RARE SPECIES AND HABITATS AT THE SITE**

**DEPARTMENT: PARKS AND COMMUNITY SERVICES**

**PRESENTED BY: KELLY DALTON, FAIRVIEW PARK ADMINISTRATOR**

**CONTACT INFORMATION: KELLY DALTON, FAIRVIEW PARK ADMINISTRATOR, (714) 754-5135**

### **RECOMMENDATION:**

Staff recommends the City Council provide direction to staff regarding whether to permanently close the Fairview Park model aircraft flying field, and terminate the model aircraft individual flyer permit system due to environmental incompatibility, safety issues, and infeasibility with required resource protection measures at the site, based on additional feedback provided by State and Federal regulatory agencies and a more exhaustive review of all available information regarding the rare and/or protected species and habitats located at Fairview Park.

### **BACKGROUND:**

Prior to undergoing a concerted and deliberate park planning effort, the site of Fairview Park had been subjected to considerable human impacts over time dating to the early periods of western settlement in present-day Costa Mesa. Before recognition of the area's ecological functions and archeological history, the site had been disturbed by a variety of activities including grazing, mowing, agriculture, deposit of construction debris, and surface degradation from uncontrolled pedestrian and vehicular traffic. During the 1960s and 70s, when the site was owned by the State of California, the westerly bluffs of Fairview Park became a popular location to launch model gliders due to the steep slopes which created ideal wind conditions for remote-controlled model soaring gliders. In the mid-1970s, the State sold the site of Fairview Park and Talbert Park to the County of Orange. After the City purchased the section of Fairview Park from the County in 1986, local residents and City staff began a process of examining the site more closely, and considering its future development and preservation as a unique open space resource.

In the 1990s, as the City began planning for development of the Fairview Park site into a public recreation and open space area, the site was recognized for possessing a rich combination of unique

environmental and archeological features.

Elsewhere in Costa Mesa, from the period of the 1950s through the 1990s, most available lands in the City and surrounding areas of Orange County had been converted and developed to make way for the area's residents and businesses.

Despite the widespread urbanization of land over the preceding decades, Fairview Park remained as a rare but prized place to seek solitude and to experience the natural environment for residents. This priority to preserve the park's natural character is also recognized in the Public Use Objectives of the Fairview Park Master Plan (Attachment 1), and indeed is the first defined objective of the plan: *Allow the park visitor to interact with a natural landscape and to experience a level of solitude, which is rare in the urban environment.*" (Attachment 1, p. 26). Since Fairview Park's early phases of planning, residents have followed the park's progress closely, speaking out over the years consistently emphasizing the desire for the park to remain in a passive, natural condition, and averting amenities and activities that would degrade this natural character. The Master Plan also contemplates the matter of compatible uses, and speaks to appropriate provisioning of public access and recreation *"in a manner which is compatible with the natural habitat restoration and archeological preservation to occur in the major portion of the site"*. Throughout the adopted Master Plan document it references the principal objectives of the park to function as the following:

- a community resource for natural resource interaction and education
- a hub for cultural history storytelling and archeological interpretation
- publicly accessible open space
- a location for compatible recreational opportunities which do not compromise the overriding restoration and preservation values of the site

As stated in the Fairview Park Master Plan, *"Some changes in anticipated uses may be expected, as in the case of the museum site. However, the overall policy direction for passive, natural preservation and restoration is to guide all detail development decisions."*

The City of Costa Mesa prepared and adopted the Fairview Park Master Plan to provide a framework for existing and future park improvements, public uses, and resource restoration and preservation objectives. Since the adoption of the Fairview Park Master Plan, the City has initiated and completed a number of significant mitigation and restoration projects within the park, documented a wide variety of special-status plant and wildlife species, and provided educational and interpretive programming to engage users about the park's unique environmental features and history. In addition to the City's significant contributions of funds and staffing resources towards restoration, preservation and mitigation projects over time, the City has also successfully obtained a large number of competitive grant funds from outside entities to complete these projects. As part of these project agreements and funding acceptances from private and public sources, the City has also accepted the obligation to continue long-term stewardship of the restored environments and threatened species which the funds were intended to preserve.

Considering Fairview Park's uniquely high biodiversity, extent of protected biological and cultural resources, and ecological significance as a remnant parcel of mostly natural open space, the City's

land management strategy for Fairview Park relies on continuous adaptive management to fulfill the long-standing Master Plan objectives of natural resource restoration and preservation. In addition to the City's own environmental stewardship objectives as established in the Master Plan, the park is also home to a wide variety of endangered species and protected habitats which involve mandatory legal protections and regulatory agency oversight. Over the preceding years, staff has expended an extensive effort to consider communication the City has received from the wildlife agencies, concerned members of the public, the City Council-appointed Fairview Park Steering Committee, and staff observations associated with the model flying activity. Despite potential revisions to the model flying ordinance and governing flight documents, staff recognizes that there are fundamental challenges to the viability and compatibility of a model gliding field at Fairview Park due to outstanding environmental constraints, safety issues, and infeasibility with required resource protection measures at the site.

In September 2021, Parks and Community Services Department staff presented the Item "Consideration of Proposals for the Use of the Flying Field at Fairview Park" to the City Council. The item was presented following a series of stakeholder meetings that were held during the course of the preceding months and years. Ultimately, the result of the discussion included City Council direction to evaluate flying activity during the Master Plan update, consider other sites including Fairview Developmental Center, and permit only gliders going forward. In addition, the City Council direction discussed the needs and resources for updating the applicable policies and ordinances, impacts to protected resources, mitigation measures to the protected areas, and accounting for environmental concerns, which were to be brought back to City Council at a later date.

Since late 2021, staff has worked extensively with community interest groups, stakeholders, the model flying community, and the Fairview Park Steering Committee (FVPSC) in an effort to fulfill the direction and account for modifications to the model flying activity to permit only gliders. This process included a thorough review of governing model flying policy documents, existing and proposed updated ordinances, the City's flyer permitting system, the Harbor Soaring Society use agreement, and communication with regulatory agencies with jurisdiction over the protected resources and habitats that reside in Fairview Park. City staff also reviewed a breadth of historical reports on biological resources in the vicinity of the existing flying area, and environmental documentation for the Fairview Park Master Plan. In doing so, staff also utilized geospatial tools to examine the relationships between the model flying field, the flight authorization area, designated trails, areas of high biological sensitivity in the Fairview Park Master Plan, and the sensitive habitat areas and resources which the City has committed to restoring and preserving. As a result of this more comprehensive analysis, staff recommends that the City Council consider permanently closing the model aircraft flying field and terminating the model aircraft individual flyer permit system due to outstanding environmental constraints, safety issues, and infeasibility with required resource protection measures at the site.

### **ANALYSIS:**

This updated agenda report is based on a comprehensive analysis of current and historical information involving site compatibility conflicts and concerns with permitting the model aircraft activity at Fairview Park. This analysis has been structured and described further below under the

following categories:

- Vernal Pool Habitat and Wetland Impacts
- Threatened, Endangered and Protected Species Impacts
- Safety Concerns
- Lack of Environmental Documentation for Site Modifications

### **Vernal Pool Habitat and Wetland Impacts**

As noted in the Fairview Park Master Plan, in August 1994, several vernal pools were first identified in Fairview Park, representing an important ecological discovery at the local and regional level. Vernal pools are amphibious ecosystems in which the alteration from wet to dry conditions creates a unique assemblage of organisms. Prior to development of coastal areas, vernal pools would have dotted most of the coastal bluffs from San Diego to Santa Barbara. Vernal pool habitat has been greatly reduced within southern California, with estimates of up to 98% loss of historic vernal pool habitat that has been destroyed in the region. In fact, the vernal pools of Fairview Park and nearby Randall Preserve (the former Banning Ranch property) represent the last coastal vernal pool complex in all of Orange County. Significant findings at the Fairview Park vernal pools include a long list of State and Federally-listed endangered species, many rare and sensitive plants that are the only documented populations in Orange County, and in some cases the only known rare plant populations in the world.

Disturbance to the vernal pools results from degradation to vegetation and soil compaction associated with recurrent pedestrian and model aircraft activity in the vernal pool watershed. Additionally, the current location of the glider winch launch anchors are within the watershed for vernal pool 1. Soil disturbance caused by encroachment into the vernal pools is unpermitted and prohibited without written permission from State and Federal regulatory agencies with jurisdiction over wetlands. The Fairview Park vernal pools are a form of ephemeral wetlands, and in the 1990s were delineated as jurisdictional waters by the Army Corps of Engineers as “waters of the United States”. Pursuant to the State of California’s updated Wetlands Conservation Policy of 2020, the park’s vernal pools are also subject to regulation as “waters of the State” as codified in the California Water Code. Recurrent access to the glider winch launch within the vernal pool watershed, and retrieval of downed aircrafts has resulted in unpermitted impacts to the vernal pools, and impacts to the rare and sensitive species that depend on this critical habitat.

Additionally, as the model aircraft activity expanded beyond the use of silent gliders to accommodate the growing use of motorized propulsion aircraft for takeoff and landings, the site of the present day flying field was graded in 2005, resulting in unpermitted impacts to the vernal pool watershed hydrology. Again in 2009, the site of the flying field was graded further to nearly double the size of the landing area, expanding to over 90,000 square feet (>2 acres) of grading which altered the hydrology of the vernal pools (Figure 1; and Attachment 2). While these activities were allowed by the City at the time, they were performed without undergoing an appropriate process of environmental review, and lacked preparation of a supplemental CEQA document to the 1997 Fairview Park Master Plan

Negative Declaration. As stated in the adopted Negative Declaration, Initial Study of Environmental Impacts, Section II (Environmental Impacts), A. Physical Environment, 1. Hydrology, *“The only significant grading would involve construction of a riparian area in and around the Placentia Drain, an earthen ditch which has historically been used for agricultural purposes to drain the northern areas out towards what is now Talbert Nature Preserve.”* The Placentia Drain grading activities referenced therein were later performed under a phased mitigation and restoration project for the Wetland and Riparian Habitat restoration project in the northwest section of the park. With respect to regional, state, and federal water quality control requirements, the mechanized grading and compaction of soil of greater than 10,000 square feet may also have required preparation of a Water Quality Management Plan (WQMP). No such plans or environmental documents were prepared for these activities, making them unpermitted under CEQA, the Clean Water Act, and the Porter-Cologne Water Quality Control Act.

Over time, staff and contracted biologists with experience at the Fairview Park site have observed a recurrent pattern of plane crashes into vegetated areas including the vernal pool habitats, unpermitted retrieval by model flyers in sensitive habitat areas, and additional surface degradation of the vernal pools associated with the operation of model aircraft and gliders. The City’s contracted biologist who has supported the City with biological resources compliance and management services has also submitted correspondence pertaining to a range of biological and environmental impacts associated with the model aircraft activity at Fairview Park (Attachment 3). In addition, the wildlife agencies have communicated to the City that model flying activities should not be performed in or over sensitive resource areas including vernal pools, coastal sage scrub, and wetland/riparian vegetation. This poses a direct incompatibility with the Harbor Soaring Society’s designated flying area, a large 77-acre area situated over the entire mesa containing various sensitive resource areas including vernal pools, coastal sage scrub, and wetland vegetation.

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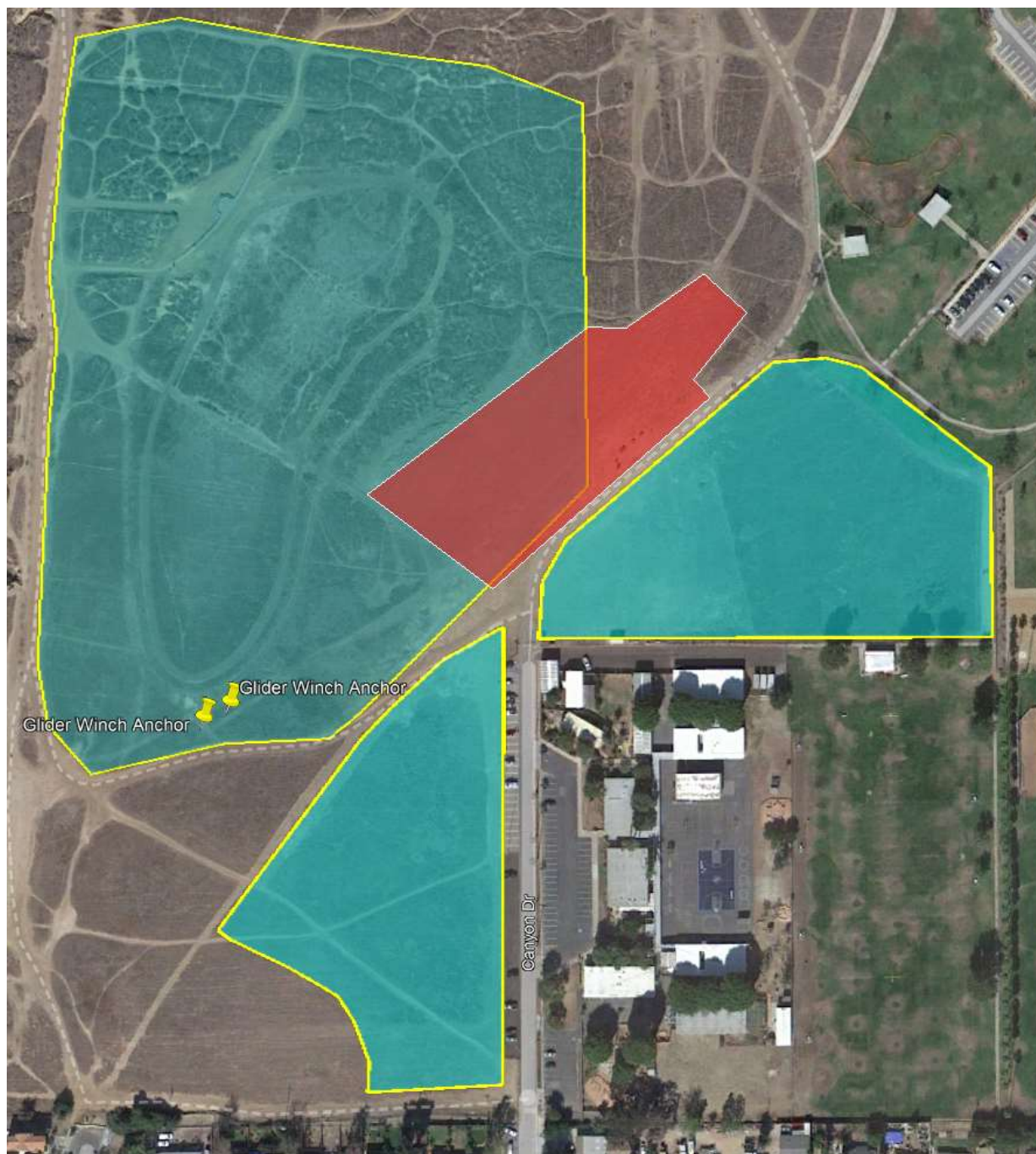


Figure 1. Map of vernal pool watershed areas (cyan with yellow borders) and 2009 graded model flying field partially within the vernal pool 1,2,3 watershed (red)





Figure 2. Current HSS designated operating area (red) with vernal pool watershed overlays (yellow)

Notably, over the last two decades, the City has accepted significant sums of competitive restoration grant funds to restore the vernal pools, coastal sage scrub, and other sensitive habitats utilized by endangered species. The wildlife agencies have shared concerns over the City's issuance of permits for activities, including model aircraft operations, due to the nature of the activities and their impacts over and around sensitive resource areas. By permitting ongoing degradation of previously restored areas through continued model flying operations in and over these sensitive areas, the City poses the risk of both environmental compliance infractions as well as jeopardizing future grant funds, for which the park has historically been a strong candidate.

### **Threatened, Endangered and Special-Status Species Impacts**

The City has accepted substantial sums of mitigation and restoration funds to restore sensitive habitats utilized by threatened and endangered species at Fairview Park. The vernal pools ecosystems and surrounding grassland and coastal sage scrub plant communities comprise a critical source of habitat and refugia for a diversity of threatened, endangered, rare and special status species, including:

#### **Avian Species**

- Burrowing Owl - Species of Special Concern and severely declining
- White-tailed Kite - California Fully Protected Species and also severely declining
- Northern Harrier - Species of Special Concern
- California Gnatcatcher - Federally-listed under the Endangered Species Act

#### **Branchiopods**

- San Diego Fairy Shrimp - Federally listed under the Endangered Species Act
- Riverside Fairy Shrimp - Federally listed under the Endangered Species Act

#### **Plants**

- Orcutt's Grass - Federally listed under the Endangered Species Act
- San Diego Button Celery - Federally listed under the Endangered Species Act
- Mud Nama - Rare plant with very few populations remaining in Orange County
- Little Mousetail - Rare plant and the only population documented in Orange County
- Vernal Barley - Rare Plant
- Prostrate Navarretia - Rare plant, possibly largest population in Orange County



- Small-flowered microseris - Rare plant

The park's five distinct habitats also function as important nesting and foraging sites for several other species of protected raptors and other native wildlife under the Migratory Bird Treaty Act, and the California Fish and Game Code. In addition to direct species impacts from altered behavior, additional vegetation trampling, and encroachment into protected habitat areas which has been observed with the model flying activity, there are also many indirect and cumulative effects that are reasonably foreseeable with the activity. These direct, indirect, and cumulative impacts would require further CEQA analysis, documentation, and mitigation that is not provided in the adopted Negative Declaration for the Fairview Park Master Plan. The CEQA Guidelines within Section 15130 provides that "An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in Guidelines Section 15065(a)(3)." That section defines "cumulatively considerable" to mean "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." (14 C.C.R. 15065.)

In the 2008 Fairview Park Master Plan update, impacts to burrowing owl habitat are specifically noted in the 2006 Biological Survey report (Attachment 4). In the report, the biologist notes that the southern area of the park near the flying field is suitable for burrowing owl habitat, but is highly disturbed by pedestrian and model airplane activity (p. 154). In the 2023 winter season, while the model aircraft activity has been on hiatus, burrowing owls have been observed on multiple occasions near the vernal pools and in the immediate vicinity of the model aircraft flying site. While it is uncertain whether the suspension in model airplane activity has contributed to the return of the burrowing owl to the previous model flying field, the current presence of burrowing owls (a State Species of Special Concern) at this location nonetheless places additional restrictions in the City's activities and permitted uses in this area of the park.

### **Safety Concerns**

Although some model aircraft activities at Fairview Park's westerly bluffs precede the adoption of the Fairview Park Master Plan, public concern with the model aircraft activity has persisted since early discussions about permitted uses in the park. Park users over time have expressed concern and made several reports to the City about uncontrolled flying, model aircraft activity directly overhead and in close proximity to park users and designated trails, and occasional conflicts between park users and model flying operators. Many park visitors consider model aircraft flying a nuisance in one of the only local places to experience the outdoors, afforded by the park's mostly natural condition and rich scenic views. There are also many instances noted by City staff and contracted personnel, that reference the prevalence and frequency of aircraft crashes in the park. These instances have been reported in non-trail locations and enclosed areas including the bluffs, the vernal pools, the grasslands and the sage scrub areas of the mesa. Residents have also reported crashes on trails and near other passive park visitors. Reports made to the City and in historical records include the following:

- uncontrolled model aircraft landings outside of designated landing areas

- crashes resulting from loss of signal or interference
- collisions between model aircraft
- crash landings into other operators at the park

On some occasions, model aircraft crashes at the park have resulted in brush fires which required using a fire extinguisher and/or response from the Fire Department, and one instance of an individual retrieving his glider who required emergency support to be extricated from a hazardous area of the bluff.

In addition to environmental concerns with model aircraft crashes into sensitive vegetated areas, the designated flight area for Harbor Soaring Society overlies many of the park's most popular pedestrian and bicycle routes used by passive park visitors, including children and students. In recent years, park attendance and user activity has also increased considerably throughout the park and mesa, posing greater risks of human collisions and conflicts between passive users and hobbyist model aircraft operators.

### **Lack of Environmental Documentation for Site Modifications**

At the time of adoption of the original Fairview Park Master Plan in 1998, for which a Negative Declaration was prepared and adopted pursuant to CEQA, the two types of model aircraft activities recognized in the plan were bluff top launches for soaring planes and electric launched gliders which would be launched into the air by hand or other mechanisms. Notably, both aircraft types were originally to be limited to 'gliders' and 'silent flyers', not motorized propulsion planes, jets, and helicopters, which later became prevalent at the site. In the early 2000s, after trees were planted at the base of the bluffs in the County-owned Talbert Park, model soaring operators encountered altered flight conditions for soaring planes that had previously been a predominate mode of flying at Fairview Park. Due to increased turbulence at the bluff soaring location resulting from the new trees, the primary operating area for model flying shifted and concentrated to the area near the restrooms.

As the model flying activity in the park grew the attention of larger, faster, and high-powered motorized model aircraft systems through the early 2000s, the model flying community encouraged the City to find an area to accommodate aircraft with larger sizes, weights, and expanded takeoff and landing needs. As the original glider launch site was found to be too close to designated trails, the restrooms, and other park user conflicts that would be present with motorized airplane activities, the model flying community worked with the city to shift the original designated launch sites from the area near the restrooms, towards the southwest (present-day flying field). Indeed, the storage area for the model aircraft equipment is defined in the Fairview Park Master Plan, "A storage area for launch gear can be provided near the launch site south of the interpretive center, associated with the restroom facility." In the original Fairview Park Master Plan, the designated area for model gliders was an area of approximately 30,000 square feet (0.8 acres) that was to remain as mostly undisturbed vegetation. Importantly, no mechanized soil disturbance, grading, or mowing in this area is recognized in the Master Plan nor in the Negative Declaration and corresponding CEQA analysis.

Throughout the Master Plan, the model flying activity operational area in Fairview Park was

established as a glider launch site, in contrast to the graded aircraft runway that was subsequently constructed for model aircraft take-off and landings. The Master Plan describes, “The laying out of the launch string can be accomplished in grassland without damage to either habitat or aircraft. Any clearing required for the launch string is not to exceed one foot in width.” When reviewing existing site conditions from the graded flying field, areas of repeated mowing, and trampling impacts from access to the glider winch launch anchors, the cumulative area of soil surface disturbance impact associated with this activity extends over 90,000 square feet (>2 acres). In addition to the altered hydrology, soil compaction and erosion created by these activities, these extensively disturbed areas have since been dominated by invasive weeds that will require restoration to restore the vernal pool ecosystem. As mentioned above with respect to vernal pool impacts as well as special-status species impacts, the collective actions of site grading, expansion, and site modification in proximity to highly biologically sensitive areas was done in the absence of appropriate environmental analysis, CEQA documentation, and mitigation to avoid and compensate for adverse environmental impacts associated with this activity.

### **ALTERNATIVES:**

One alternative would be to further evaluate the east side of the park for the compatibility of relocating the model gliding activity to the east of Placentia Avenue. However, this option is not recommended as this area also contains vernal pools, designated trails, and biological resources that pose conflicts with the activity. In addition, this alternative would require significant additional staff resources to further evaluate flying feasibility and further delay other restoration and preservation priorities in the Fairview Park Master Plan.

### **FISCAL REVIEW:**

No fiscal impact.

### **LEGAL REVIEW:**

The City Attorney has reviewed this report.

### **CITY COUNCIL GOALS AND PRIORITIES:**

This item supports the following City Council Goals:

- Strengthen the Public's Safety and Improve the Quality of Life
- Advance Environmental Sustainability and Climate Resiliency

**CONCLUSION:**

Based on the additional information provided above, Staff recommends that City Council permanently close the Fairview Park model aircraft flying field and terminate the model aircraft individual flyer permit system due to outstanding environmental constraints, safety issues, and infeasibility with required resource protection measures at the site.