

# KLOTZ RANCH APARTMENTS PROJECT

Cultural and Tribal Cultural Resources Supplement to the  
Final Environmental Impact Report  
SCH # 2020039059

Prepared for  
City of Sacramento  
Community Development Department

January 2021



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# CULTURAL AND TRIBAL CULTURAL RESOURCES SUPPLEMENT TO THE FINAL EIR

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## Revisions to the Draft EIR

### 4.3, Cultural Resources

On page 4.3-1, the second paragraph is revised to read:

Comments on the NOP (see Appendix B) included responses from four Native American tribes regarding potential impacts of the project on cultural resources and tribal cultural resources. The United Auburn Indian Community of the Auburn Rancheria (UAIC) requested a site visit and all existing cultural resource assessments conducted for the project. The Shingle Springs Rancheria requested the initiation of the consultation process and requested all completed cultural resources documentation for the project. The Wilton Rancheria provided a set of mitigation measures to incorporate into the project, including avoidance, inadvertent discovery, a pre-construction site visit, and worker awareness training. Finally, the Buena Vista Rancheria noted that they do not have any tribal knowledge of cultural resources present in the project area and would like to be notified in the event of a discovery during construction. Information given based on Native American Tribal oral history of the vicinity during consultation has described the site as being sensitive, including identification of a tribal cultural resource. Above-ground investigation, coordinated with UAIC and Wilton, have confirmed the sensitive nature of the site.

On page 4.3-4, delete the title text “History” and revise title text to: Settler History.

On page 4.3-10, text is added to the discussion of Archaeological Resources:

Results of the NCIC records search indicate that no cultural resources have been previously recorded in the project area. One prehistoric resource (P-34-000071) is within ¼-mile of the project area. Klotz Mound (P-34-000071) is a pre-contact village mound located along the Sacramento River south of the project area. Klotz Mound was recorded as being completely leveled and destroyed. (footnotes omitted)

Affiliated tribes have observed that tribal mounds often extend beyond the visible, above ground portion of the mound for a variety of reasons, including: tribal people lived in and around their mounds typically in village districts; mounds are subject to natural processes that may further distribute resources; many mounds were historically subject to human influence such as leveling for farming and excavation for development or academic study; and that mounds often have extensive underground structure which may remain despite surface impacts. (See Amicus Curiae

Brief of UAIC in Ruegg & Ellsworth et al. v. City of Berkeley et al., Case No. A159218, Court of Appeal of the First Appellate District, November 4, 2020) (West Berkeley Shellmound)

On page 4.3-11, text is revised after the second paragraph:

The City has conducted correspondence with several culturally affiliated tribes of the area. In ~~all~~ correspondence with two of the tribes the site has been identified as being sensitive, including a tribal cultural resource, through oral history of the vicinity. Tribal consultation efforts are continuing and discussed further in Impact 4.3-4.

On page 4.3-12, Mitigation Measure 4.3-1(b) is revised to read:

Prior to authorization to proceed, the applicant shall retain a Secretary of the Interior-qualified archaeologist ~~shall~~, with input from consulting tribes, to prepare a Cultural Resources Monitoring Plan. Monitoring shall be required during initial ground-disturbing activities and may be extended should the area be determined to require monitoring of deeper sediments, according to a schedule outlined in the Cultural Resources Monitoring Plan. The plan shall include (but not be limited to) the following components:

- Person(s) responsible for conducting monitoring activities, including an archaeological monitor and an appropriate number of a Native American Tribal monitors (number and kind of appropriate monitors to be determined in consultation with consulting tribes);
- Person(s) responsible for overseeing and directing the monitors;
- Provision of a monitor trailer and, if requested by consulting tribes to treat and secure discoveries at the site, a secure area for preparation of materials for treatment (reburial or repatriation), at the applicant's expense;
- How the monitoring shall be conducted and the required format and content of monitoring reports, including schedule for submittal of monitoring reports and person(s) responsible for review and approval of monitoring reports;
- Protocol for notifications in case of encountering cultural resources, as well as methods of dealing with the encountered resources (e.g., collection, identification, ~~repatriation~~ appropriate documentation, repatriation);
- Methods to ensure security of cultural resources sites, including protective fencing, security, and protocol for notifying local authorities (i.e. Sheriff, Police) should site looting ~~and~~ or other resource damaging or illegal activities occur during construction.

During the course of the monitoring, the archaeologist and Native American Tribal monitor may adjust the frequency—from continuous to intermittent—based on the conditions and professional judgment regarding the potential to impact cultural and tribal cultural resources.

On page 4.3-13, Mitigation Measure 4.3-1(c) is revised to read:

**Mitigation Measure 4.3-1(c): In the Event that Cultural Resources or Tribal Cultural Resources Are Discovered During Construction, Implement Avoidance and Minimization Measures to Avoid Significant Impacts and Procedures to Evaluate Resources.**

If cultural resources or tribal cultural resources (such as structural features, unusual amounts of bone or shell, artifacts, or human remains) are encountered at the project site during construction, work shall be temporarily suspended within 100 feet of the find (based on the apparent distribution of cultural materials), and the construction contractor shall immediately notify the project's City representative. Avoidance and preservation in place is the preferred manner of mitigating impacts to cultural resources and tribal cultural resources. This will be accomplished, if feasible, by several means, including:

- Planning construction to avoid tribal cultural resources, archaeological sites and/or other cultural resources; incorporating cultural resources within parks, green-space or other open space; covering archaeological resources; deeding a cultural resource to a permanent conservation easement; or other preservation and protection methods agreeable to consulting parties and regulatory authorities with jurisdiction over the activity.
- Recommendations for avoidance of cultural resources and tribal cultural resources will be reviewed by the City representative, interested consulting tribes and other appropriate agencies, in light of factors such as costs, logistics, feasibility, design, technology and social, cultural and environmental considerations, and the extent to which avoidance is consistent with project objectives.
- Consulting tribes will be invited to review and comment on these analyses and shall have the opportunity to meet with the City representative and its representatives who have technical expertise to identify and recommend feasible avoidance and design alternatives, so that appropriate and feasible avoidance and design alternatives can be identified.
- If the discovered cultural resource or tribal cultural resource can be avoided, the construction contractor(s), will install protective fencing outside the site boundary, including a 100-foot buffer area, before construction restarts. The boundary of a cultural resource or a tribal cultural resource will be determined in consultation with interested culturally affiliated Native American consulting tribes and a designated Native American Tribal representative(s) will be invited to monitor the installation of fencing. Use of temporary and permanent forms of protective fencing will be determined in consultation with a Native American Tribal representative consulting tribes.
- The construction contractor(s) will maintain the protective fencing throughout construction to avoid the site during all remaining phases of construction. The area will be demarcated as an "Environmentally Sensitive Area."

If a cultural resource or a tribal cultural resource cannot be avoided, the following performance standard shall be met prior to continuance of construction and associated activities that may result in damage to or destruction of cultural resources or tribal cultural resources:

- Each resource will be evaluated for California Register of Historical Resources- (California Register) eligibility through application of established eligibility criteria, in consultation with consulting Native American Tribes tribes, as applicable.

If a cultural resource or a tribal cultural resource is determined to be eligible for listing in the California Register, the City will avoid damaging effects to the resource in accordance with California PRC Section 21084.3, if feasible. The City shall coordinate the investigation of the find with a qualified archaeologist (meeting the Secretary of the Interior's Professional

Qualifications Standards for Archeology) approved by the City and with ~~interested culturally affiliated Native American~~ consulting tribes that respond to the City's invitation within two weeks of receiving the invitation. As part of the site investigation and resource assessment, the City and the archaeologist shall consult with interested ~~culturally affiliated Native American~~ consulting tribes to assess the significance of the find, make recommendations for further evaluation and treatment as necessary and provide proper management recommendations should potential impacts to the resources be determined by the City to be significant. A written report detailing the site assessment, coordination activities, and management recommendations shall be provided to the City representative by the qualified archaeologist. These recommendations will be documented in the project record. For any recommendations made by consulting tribes that are not implemented, a justification for why the recommendation was not followed will be provided in the project record.

~~Native American representatives from interested culturally affiliated Native American Tribes~~ Consulting tribes and the City representative will also consult to develop measures for long-term management of any discovered tribal cultural resources. Consultation will be limited to actions consistent with the jurisdiction of the City and taking into account ownership of the subject property. To the extent that the City has jurisdiction, routine operation and maintenance within tribal cultural resources retaining tribal cultural integrity shall be consistent with the avoidance and minimization standards identified in this mitigation measure.

If the City determines that the project may cause a significant impact to a tribal cultural resource, and measures are not otherwise identified in the consultation process, the following are examples of mitigation capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to the resource. These measures may be considered to avoid or minimize significant adverse impacts and constitute the standard by which an impact conclusion of less-than significant may be reached:

- Avoid and preserve resources in place, including, but not limited to, planning construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- Treat 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:
  - Protect the cultural character and integrity of the resource.
  - Protect the traditional use of the resource.
  - Protect the confidentiality of the resource.
  - Establish permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or using the resources or places.

- Protect the resource.

**Significance After Mitigation:** Implementation of **Mitigation Measures 4.3-1(a), 4.3-1(b) and 4.3-1(c)** would reduce the potential impact to inadvertently discovered archaeological resources to **less than significant**.

On page 4.3-17, Impact 4.3-3, the first paragraph is revised to read:

Based on the records search and survey results, no human remains are known to exist within the project area. However, information given based on Native American oral history of the vicinity has described the site as being sensitive, including a tribal cultural resource. Therefore, the proposed project is not anticipated to impact human remains, including those interred outside of dedicated cemeteries. ~~However, information given based on Native American oral history of the vicinity has described the site as being sensitive.~~

Beginning on page 4.3-18, discussion of Impact 4.3-4, beginning with the third paragraph, the text is revised to read:

On January 27, 2020, the City sent notification letters to four Native American tribes who have previously indicated interest to the City of Sacramento pursuant to PRC Section 21080.3.1(d) (AB 52) as per AB 52. The tribes were afforded 30 days to respond. As of February 27, 2020, Four tribes: (Buena Vista Rancheria of Me-Wuk Indians, Shingle Springs Band of Miwok Indians, United Auburn Indian Community of the Auburn Rancheria UAIC, and Wilton Rancheria) have requested consultation with the City. A summary of the consultation under AB 52 is provided further below.

~~All four tribes responded to the City as described in the introduction above. The City will engage in continued consultation with the tribe regarding potential impacts to cultural resource and tribal cultural resources.~~

~~Based on the records search at the North Central Information Center (NCIC) of the California Historical Resources Information System in 2017 (File No. SAC-17-122) and the NAHC SLF negative search results, there are no known tribal cultural resources listed or determined eligible for listing in the California Register, or included in a local register of historical resources as defined in PRC Section 5020.1(k), or pursuant to PRC Section 21074(a)(1), that would be affected by the project. A surface survey of the project area identified no potential tribal cultural resources. In addition, the City did not determine any resource that could potentially be affected by the project to be a significant tribal cultural resource pursuant to criteria set forth in PRC Section 5024.1(c). However, if any previously unrecorded archaeological resource were identified during project implementation, particularly ground disturbing construction activities, and were found to qualify as a tribal cultural resource pursuant to PRC Section 21074(a)(2) (determined by the lead agency to be significant pursuant to criteria set forth in PRC Section 5024.1(c)), any impact to the resource resulting from the project could be **potentially significant**. Any potentially significant impact would be reduced to a less than significant level by~~

~~implementing Mitigation Measures 4.2-1(a) and 4.2-1(b) and/or Mitigation Measure 4.3-3, as applicable.~~

State law requires that confidentiality of tribal cultural resources, as disclosed during tribal consultation under AB 52, be maintained. In accordance with Section 21082.3(c)(1) of the PRC, "...information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is 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 subdivision (r) of Section 6254 of, and Section 6254.10 of, the Government Code, and subdivision (d) of Section 15120 of Title 14 of the CCR, without the prior consent of the tribe that provided the information." Therefore, the details of tribal consultation summarized herein are provided in a confidential appendix and not available for public disclosure without written permission from the tribes; however, all pertinent information necessary to provide substantial evidence for impact determinations is summarized in this section of the EIR.

### **Shingle Springs**

On February 10, 2020, the City received a request from Shingle Springs to consult on this project. On February 18, 2020, the City initiated consultation. During consultation, the tribe indicated that it is not aware of any known tribal cultural resources present within the project area. Subsequently, the City and Shingle Springs came to agreement pursuant to PRC 21080.3.2(b)(1) and 21082.3(d)(1) and closed the consultation on September 22, 2020.

### **Buena Vista Rancheria**

On January 29, 2020, the City received a request from Buena Vista Rancheria to consult on this project. On January 29, 2020, the City initiated consultation. During consultation, the tribe indicated that it is not aware of any known tribal cultural resources present within the project area. Subsequently, the City and Buena Vista Rancheria came to agreement pursuant to PRC 21080.3.2(b)(1) and 21082.3(d)(1) and closed the consultation on March 3, 2020. This agreement was reconfirmed by the City on November 2, 2020.

### **Wilton Rancheria and UAIC**

On January 28, 2020, the City received requests from both Wilton Rancheria and UAIC to consult on this project. On January 28, 2020 and February 10, 2020, the City initiated consultation with Wilton Rancheria and UAIC, respectively. With the approval of both tribes, tribal consultation with Wilton Rancheria and UAIC was coordinated together.

The City conducted four video calls (April 15, 2020; October 9, 2020; December 4, 2020; and January 19, 2021) and one site visit (November 6, 2020) with representatives of UAIC and Wilton Rancheria. Representatives of both tribes noted that their tribal knowledge indicated that the project area was sensitive for tribal cultural resources, and they requested that a survey of the project area be conducted by canine forensic dogs. On December 8, 2020, the Institute of Canine Forensics carried out a survey. Representatives from UAIC and Wilton Rancheria, as well as an

archaeologist meeting the Secretary of the Interior’s Professional Qualifications Standards for Archeology, were present during the survey. Multiple dogs alerted at one specific location within the project area during the survey. Wilton Rancheria provided a letter to the City on January 19, 2021 confirming the identification of possible lithic material during the site visit on November 6, 2021.

Due to access restrictions, subsurface investigations of the location are not possible until EIR certification. Therefore, for the purpose of this project and EIR, the City is treating that location as a tribal cultural resource pursuant to PRC Section 21074(a)(2) (determined by the lead agency to be significant pursuant to criteria set forth in PRC Section 5024.1(c)), and will be avoided in compliance with Mitigation Measure 4.3-5.

Any discoveries of a tribal cultural resources outside that area would require specific treatment if encountered during construction related activities. Any impact to the resource resulting from the project could be **potentially significant**. Mitigation Measure 4.3-3 addresses the procedures under the California Health and Safety Code and PRC with respect to human remains; however, additional treatment of any discovery of tribal cultural resources at the project site under Mitigation Measure 4.3-4 will be necessary to reduce the impact to less than significant.

Consultation, in accordance with PRC 21082.3(d)(1) is ongoing, but will be concluded as required by PRC 21082.3(d) with respect to tribal cultural resources prior to certification of the EIR.

Mitigation Measure 4.3-4, beginning on page 4.3-19, is revised to provide as follows:

#### Mitigation Measure

#### **Mitigation Measure 4.3-4**

~~Implement Mitigation Measures 4.3-1(a), 4.3-1(b), and 4.3-1(c) and/or Mitigation Measure 4.3-3, as applicable.~~

The City, the applicant, and a Secretary of the Interior-qualified archaeologist retained by the applicant, will prepare and implement, in consultation with culturally-affiliated tribes, a confidential tribal cultural resources treatment plan for the project site. This treatment plan may be either incorporated into the monitoring plan required by Mitigation Measure 4.3-1(b) or prepared as a stand-alone document. The plan shall include (but not be limited to) the following components:

- delineation of the horizontal and vertical extent of discoveries outside the NAP using appropriate techniques which may include, but not be limited to: ground penetrating radar, geoarchaeological trenching, and additional studies coordinated with consulting tribes, conducted at the applicant’s expense;
- if determined to be necessary, the methods of contractor excavation (such as slower controlled grading) or any required equipment to minimize inadvertent damage to any subsurface resources;

- the amount of tribal monitoring, if different than what is required by the project monitoring plan;
- procedures for the discovery of human remains, as required by Mitigation Measure 4.3-3;
- protocol for recovery of materials, including tribal consultation and the preparation of materials for reburial at a culturally-appropriate and dignified location not subject to future disturbance to be identified in the treatment plan, conducted at the applicant's expense;
- framework for further consultation and additional treatment, proportional to the impacts encountered, which could include financial donation(s) to tribal cultural activities, land trusts or banking, or other organizations, as agreed upon by the applicant, tribes, and City; and
- the scope and timing of documentation of the methods and results of the implementation of the treatment plan.
- further coordination with consulting tribes as part of the Treatment Plan to occur regarding the plans, site preparation, and construction for the southern basin proposed adjacent to sensitive area.

The tribal cultural resources treatment plan shall be approved by the City prior to ground disturbing activities commencing in the project area.

**Significance After Mitigation:** Implementation of **Mitigation Measure 4.3-4** would reduce the potential impacts to inadvertently discovered tribal cultural resources to **less than significant**.

Mitigation Measure 4.3-5, beginning on page 4.3-20, is revised to read as follows:

#### Mitigation Measure

#### **Mitigation Measure 4.3-5**

~~Implement Mitigation Measures 4.3-1(a), 4.3-1(b), and 4.3-1(c) and/or Mitigation Measure 4.3-3, as applicable.~~

A portion of the project site shall be designated "Not A Part" (NAP) on all construction plans. No ground disturbance or excavation shall occur within the NAP. The boundary of the NAP shall be identified by a qualified archaeologist based on GIS coordinates for the likely location of sensitive tribal cultural resources based on site research, in consultation with consulting tribes, and confirmed as confidential information with the tribes, with notice to the applicant for installation of a construction fence boundary at the limit of the setback for the NAP, conducted and maintained at the applicant's expense. The applicant shall revise all project site plans for the project to identify a portion of the site as "Not A Part" (NAP) of the project. Archaeological and Native American tribal monitors, and City staff, shall have authority to enforce the restrictions on the NAP. The construction fence shall be removed prior to a Certificate of Occupancy. Permanent fencing, marking or signage of the NAP, and culturally appropriate and dignified management of the NAP

area, to be determined through consultation with the consulting tribes as part of the Treatment Plan, at the applicant's expense.

**Significance After Mitigation: Implementation of Mitigation Measure 4.3-5 would reduce the potential impacts to identified tribal cultural resources to less than significant.**

On page 4.3-20, Mitigation Measure 4.3-5 is revised to read:

**Mitigation Measure ~~4.3-5~~ 4.3-6**

Implement Mitigation Measures 4.3-1(a), 4.3-1(b), and 4.3-1(c) and/or Mitigation Measure 4.3-3, 4.3-4, and 4.3-5 as applicable.

On page 4.3-21, Mitigation Measure 4.3-6 is revised to read:

**Mitigation Measure ~~4.3-6~~ 4.3-7**

Implement Mitigation Measures 4.3-2(a) and 4.3-2(b), as applicable.