
IV. ENVIRONMENTAL IMPACT ANALYSIS

Q. TRIBAL CULTURAL RESOURCES

INTRODUCTION

This section of the DEIR evaluates potential impacts to tribal cultural resources that may result from implementation of the Stonegate Vesting Tentative Subdivision Map and General Plan Amendment / Rezone (“proposed project”). The information and analysis in this section is based on the following cultural resources reports prepared for the proposed project, which are included in Appendix E of this Draft EIR:

- Far Western Anthropological Research Group, Inc. (Far Western), Archaeological Survey and Extended Phase I Report for the Stonegate Subdivision Project, Butte County, California, June 2017
- ECORP Consulting, Inc., Cultural Resources Evaluation and Finding of Effect for the Stonegate Subdivision Project, City of Chico, Butte County, California, August 2017
- Sub Terra Consulting, Archaeology and Paleontology, Peer review of Cultural Resources Evaluation and Finding of Effect for the Stonegate Subdivision Project, City of Chico, Butte County, California, November 2017

Methodology

Far Western conducted cultural resources studies for a subdivision, general plan amendment and rezoning of the proposed project in southeast Chico. These studies included an archival records search at the Northeast Information Center at Chico State University, a buried site sensitivity analysis, Native American and Historical Society consultation, and an intensive pedestrian survey.

A letter was sent to the Native American Heritage Commission (Commission) on July 8, 2016, requesting a review of the Sacred Lands file and a list of interested Native American tribes and individuals. On July 13, 2016, the Commission responded indicating that they have no knowledge of Native American resources within the Project site and providing a list of five individuals/organizations to contact. Letters were sent to these individuals/organizations on July 26, 2016, requesting information on the project area and soliciting comments on the proposed project.

ENVIRONMENTAL SETTING

In September 2014, the California Legislature passed Assembly Bill (“AB”) 52, which added provisions to the Public Resources Code (“PRC”) concerning the evaluation of impacts on tribal cultural resources under CEQA, and consultation requirements with California Native American tribes. In particular, AB 52 now requires lead agencies to analyze a project’s impacts on “tribal cultural resources,” separately from archaeological resources (PRC Section 21074; 21083.09). Under AB 52, “tribal cultural resources” include “sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe” that are either (1) listed, or determined to be eligible for listing, on the state or local register of historic resources; or (2) a resource that the lead agency chooses, in its discretion, to treat as a tribal cultural resource (PRC Section 21074). AB 52 also requires lead agencies to engage in additional consultation procedures with respect to California Native American tribes (PRC Sections 21080.3.1, 21080.3.2, 21082.3). If a project may have a significant impact on a tribal cultural resource, the lead agency’s environmental document must discuss (1) whether the proposed project has a significant impact on an identified tribal cultural resource and (2) whether feasible alternatives or mitigation measures avoid or substantially less the impact on the identified tribal cultural resource (PRC Section 21082.3(b)). Finally, AB 52 required the Office of Planning and Research to update Appendix G of the CEQA Guidelines by July 1, 2016 to provide sample questions regarding impacts to tribal cultural resources (PRC Section 21083.09). AB 52’s provisions apply to projects that have a notice of preparation filed on or after July 1, 2015.

REGULATORY SETTING

Federal

National Historic Preservation Act

The National Historic Preservation Act of 1966 (NHPA), as amended, established the National Register of Historic Places (NRHP), which contains an inventory of the nation's significant prehistoric and historic properties. As stated by 36 CFR 60, a property is recommended for possible inclusion on the NRHP if it is at least 50 years old, has integrity, and meets at least one of the following criteria:

- Association with significant events in history, or broad patterns of events.
- Association with significant people in the past.
- Embodiment of distinctive characteristics of an architectural type, period, or method of construction; or work of a master or possesses high artistic value; or representation of a significant and distinguishable entity whose components may lack individual distinction.
- Has yielded, or may yield, information important in history or prehistory.

Properties including religious sites, relocated properties, graves and cemeteries, reconstructed properties, commemorative properties, and properties that have achieved significance within the past 50 years are typically excluded from consideration for listing in the NRHP; however, they can be considered if they meet special requirements in addition to meeting the criteria listed above.

State

Tribal Consultation

SB-18 Tribal Consultation

SB-18 Tribal Consultation; Government Code Section 65352.3 (Senate Bill [SB] 18) requires local governments to consult with California Native American Tribes identified by the California Native American Heritage Commission (NAHC) regarding proposed local land use planning decisions and prior to the adoption or amendment of a general plan or specific plan. The purpose of this consultation is to preserve or mitigate impacts to cultural places.

AB-52 Tribal Cultural Resources

In September of 2014, the California Legislature passed Assembly Bill (AB) 52, which added provisions to the Public Resources Code concerning the evaluation of impacts on Tribal Cultural Resources (TCRs) under CEQA, and consultation requirements with California Native American tribes. In particular, AB 52 now requires lead agencies to analyze a project's impacts on "tribal cultural resources," separately from archaeological resources (PRC Section 21074; 21083.09). The Bill defines "tribal cultural resources" in a new section of the PRC, Section 21074. AB 52

also requires lead agencies to engage in additional consultation procedures with respect to California Native American tribes (PRC Sections 21080.3.1, 21080.3.2, 21082.3). Finally, AB 52 requires the Office of Planning and Research to update Appendix G of the CEQA Guidelines by July 1, 2016 to provide sample questions regarding impacts to tribal cultural resources (PRC Section 21083.09). AB 52's provisions apply to projects that have a notice of preparation filed on or after July 1, 2015.

Defined in Section 21074(a) of the Public Resources Code, TCRs are:

1. Sites, features, places, cultural landscapes, sacred places and objects with cultural value to a California Native American tribe that are either of the following:
 - a. Included or determined to be eligible for inclusion in the California Register of Historical Resources; or
 - b. Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

TCRs are further defined under Section 21074 as follows:

- a. A cultural landscape that meets the criteria of subdivision (a) is a TCR to the extent that the landscape is geographically defined in terms of the size and scope of the landscape; and
- b. A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a "non-unique archaeological resource" as defined in subdivision (h) of Section 21083.2 may also be a TCR if it conforms with the criteria of subdivision (a).

Mitigation measures for TCRs must be developed in consultation with the affected California Native American tribe pursuant to newly chaptered Section 21080.3.2, or according to Section 21084.3. Section 21084.3 identifies mitigation measures that include avoidance and preservation of TCRs and treating TRCs with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource.

Local*City of Chico Municipal Code*Historic Preservation Ordinance

A historic preservation ordinance of the Chico Municipal Code specifically affords protection for properties listed on the City's Historic Resources Inventory and provides a mechanism to add historic properties to the Inventory through Landmark Overlay zoning districts. The ordinance also provides development incentives to owners of designated historic property and establishes a number of exempt activities such as ordinary maintenance and repair. Proposals to significantly alter or demolish structures listed on the City's Historic Resources Inventory are reviewed by the City's five-member Architectural Review and Historic Preservation Board. The Board also reviews nominations to the City's Inventory and forwards recommendations to the City Council for a final determination of listing.

City of Chico General Plan

Policy CRHP-1.1 (Historic Preservation Program) – Maintain a comprehensive Historic Preservation Program that includes policies and regulations which protect and preserve the archaeological, historical, and other cultural resources of Chico.

ENVIRONMENTAL IMPACTS

Thresholds of Significance

Based on Appendix G of the CEQA Guidelines, a project would have a significant impact on cultural resources if the project would:

- (a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
 - i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
 - ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the new resource to a California Native American tribe.

Project Impacts and Mitigation Measures

Impact TCR-1: The proposed project would cause a significant adverse change in a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k).

Criteria for listing on the California Register of Historical Resources is described in Section IV.E (Cultural Resources). In accordance with AB-52, a letter was sent to the Native American Heritage Commission ("Commission") on July 8, 2016, requesting a review of the Sacred Lands file and a list of interested Native American tribes and individuals. On July 13, 2016, the Commission responded indicating that they have no knowledge of Native American resources within the project site and provided a list of five individuals/organizations to contact. Letters were sent to these individuals/organizations on July 26, 2016, requesting information on the project area and soliciting comments on the proposed project. Michael DeSpain from the Mechoopda Indian Tribe called on August 8, 2016, to discuss the high sensitivity for archaeological sites near creeks and other waterways and requested that tribal monitors be present during future ground-disturbing activity, including coring. He also referred to the archaeological sensitivity map included within the current general plan¹. This map of Prehistoric

¹ City of Chico Archaeological Sensitivity Map. 2009

Archaeological Sensitivity was developed by the Mechoopda Indian Tribe of Chico Rancheria and includes the project site. While the northwestern portion of the project, west of Bruce Road, is considered to have Medium Sensitivity, the majority of the project site east of Bruce Road is considered to be an area of High Sensitivity. No other comments were received from interested Native American parties. *Mitigation Measure CULT-2* would require the Applicant to provide reasonable notification and access to the site for a Mechoopda Tribe-designated monitor during ground-disturbing activities, and requires halting construction activities pending a professional evaluation of any resources discovered during grading operations. With implementation of *Mitigation Measure CULT-2* the project would have a **less than significant** impact regarding an adverse change to a tribal cultural resource.

Impact TCR-2: The proposed project would cause a significant adverse change in a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the new resource to a California Native American tribe.

As stated above, letters were sent to these individuals/organizations on July 26, 2016, requesting information on the project area and soliciting comments on the proposed project. Michael DeSpain representing the Mechoopda Indian Tribe called on August 8, 2016, to discuss the high sensitivity for archaeological sites near creeks and other waterways and requested that tribal monitors be present during future ground-disturbing activity, including coring. He also referred to the archaeological sensitivity map included within the current general plan². No other comments were received from interested Native American parties. With implementation of *Mitigation Measure CULT-2* the project would have a **less than significant** impact regarding an adverse change to a significant resource as defined under subdivision (c) of Public Resources Code Section 5024.1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

Implementation of *Mitigation Measure CULT-2* would reduce significant project impacts on tribal cultural resources to a **less-than-significant** level.

² City of Chico Archaeological Sensitivity Map. 2009

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