

4.3 CULTURAL AND TRIBAL CULTURAL RESOURCES

4.3.1 INTRODUCTION

This section analyzes and evaluates the potential impacts of the proposed El Dorado Hills Apartments project (“proposed project”) on known and unknown cultural resources, on unknown fossil deposits of paleontological importance, and tribal cultural resources.

Cultural resources include districts, sites, buildings, structures, or objects generally older than 50 years and considered to be important to a culture, subculture, or community for scientific, traditional, religious, or other reasons. Historical (or architectural) resources are standing buildings (e.g., houses, barns, outbuildings, cabins) and intact structures (e.g., dams, bridges). Archaeological resources are locations where human activity has measurably altered the earth or left deposits of prehistoric or historic-era physical remains (e.g., stone tools, bottles, former roads, house foundations). Paleontological resources include mineralized, partially mineralized, or unmineralized bones and teeth, soft tissues, shells, wood, leaf impressions, footprints, burrows, and microscopic remains that are more than 5,000 years old and occur mainly in Pleistocene (from 2.6 million to 11,700 years ago) or older sedimentary rock units.

A tribal cultural resource is defined in Public Resources Code Section 21074 as a site, feature, place, cultural landscape that is geographically defined in terms of its size and scope, sacred place, or object with cultural value to a California Native American tribe that is either listed or eligible for listing in the California Register of Historical Resources, or is included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).

The primary source of information for this section is the *Archaeological Resources Assessment Report* prepared for the proposed project by Basin Research Associates. This report is included in **Appendix 4.3** of this Draft EIR.

4.3.2 ENVIRONMENTAL SETTING

This section describes the methods used to develop the cultural setting and baseline conditions for the project site.

4.3.2.1 Research and Site Reconnaissance

Records Search

The general study area of the proposed project encompasses El Dorado County and the adjacent counties. A prehistoric and historic site record and literature search for the project site and an area within a 0.25-

mile radius (project study area) was completed by the California Historic Resources Information System, North Central Information Center, California State University, Sacramento (CHRIS/NCIC File No. ELD-16-23). Specialized listings for cultural resources consulted during the records search include:

- Historic Properties Directory for El Dorado County with the most recent updates of the NRHP; CRHR; California Historical Landmarks; and, California Points of Historical Interest;
- National Register of Historic Places listings for El Dorado County, California;
- Archeological Determinations of Eligibility for El Dorado County;
- California Historical Landmarks;
- California History Plan;
- California Inventory of Historic Resources;
- Five Views: An Ethnic Sites Survey for California;
- California Historical Resources –El Dorado County [including National Register, State Landmark, California Register, and Point of Interest];
- Various El Dorado County and El Dorado Hills Specific Plan documents:
 - El Dorado Hills Specific Plan EIR (Jones & Stokes 1987) including Chapter 13, Cultural Resource Assessment by Peak & Associates;
 - El Dorado Hills Specific Plan;
 - Cultural Resources in the Conservation and Open Space Element of the 2004 El Dorado County General Plan: A Plan for Managed Growth and Open Roads; A Plan for Quality Neighborhoods and Traffic Relief; and
- Historic maps and USGS topographic quadrangle maps.

Recorded Archaeological Sites

No archaeological sites and/or built environment have been recorded in or adjacent to the project site. Five historic era sites have been recorded within 0.25 miles of the project site.

- P-09-000012 –a road to the Clarksville Cemetery.
- P-09-000015 – dry laid rock wall along part of White Rock Road.
- P-09-000809 – segment of the old White Rock Road/Sacramento-Placerville Road, Mormon Hill Road, Lincoln Highway.

- P-09-001670 – Mormon Hill Historic District including mines/quarries/tailings and farms/ranches as well as P-09-004204, the Clarksville Cemetery.
- P-09-004204 – Clarksville Cemetery, also known as the Mormon Tavern Cemetery [or the Old Mormon Cemetery] within the Mormon Hill Historic District [P-09-001670].

Compliance Reports

Twenty-three (23) archaeological reports are on file at the CHRIS/NCIC for the area within 0.25 miles of the project site. However, only three reports associated with the El Dorado Hills Specific Plan on file with the CHRIS/NCIC include the project site location.

- Cultural Resource Assessment of the El Dorado Hills Project, El Dorado County California.
- A Determination of Eligibility and Effect on the Cultural Resources within the El Dorado Hills Project Area.
- Addendum To: A Determination of Eligibility and Effect on the Cultural Resources within the El Dorado Hills Project Area.

Listed Historic Properties

No listed local, state or federal historically or architecturally significant structures, landmarks or points of interest have been identified in or adjacent to the project site.

El Dorado Hills Specific Plan

The project site is within the Village T area of the El Dorado Hills Specific Plan. The Specific Plan area was subject to an archaeological literature and field review in 1986 and 1987 by Peak & Associates for the EIR for El Dorado Hills Specific Plan.

Twenty-nine (29) archaeological sites and 31 isolated features were recorded for the Specific Plan area. Site types/components included both prehistoric and historic archaeological resources, features, structures and buildings. No archaeological testing was conducted within the Village T area; however, to date no prehistoric or historic archaeological resources have been identified on or near the project site.

Individual Group and Agency Participation

On April 19, 2016, Basin Research Associates consulted with the Native American Heritage Commission (NAHC) to identify the names of Native American groups or individuals that might have knowledge or concern about potential resources within the vicinity of the proposed project. On April 27, 2016, NAHC provided a list of five Native American tribes to contact for information that Basin Research Associates

provided to El Dorado County. In addition, El Dorado County has identified a list of six Native American individuals and organizations through the Senate Bill (SB) 18 and Assembly Bill (AB) 52 processes. The SB 18 process provides an opportunity for selected Native American tribes and representatives to formally consult directly with the County about the impacts of the project on traditionally important resources. AB 52, which was approved in September 2014 and became effective on July 1, 2015, requires that CEQA lead agencies consult with California Native American tribes that are traditionally and culturally affiliated with the geographic area of a proposed project, if so requested by the tribes. On April 24, 2017,¹ El Dorado County sent these Native American individuals and organizations letters requesting these groups provide any information or concerns regarding cultural resources that could be affected by the proposed project. Responses were received from the Chairman of the United Auburn Indian Community of the Auburn Rancheria and the Chairperson of the Shingle Springs Band of Miwok Indians; consultation with both of these tribal representatives is ongoing.

Archaeological Field Reconnaissance

On April 15, 2016, an archaeologist meeting the Standards of the Secretary of the Interior for Archaeology conducted a pedestrian survey of the project site. Field transects were oriented north-south and spaced approximately three meters apart. Native and invasive grasses and flowering plants were present throughout. As a result surface visibility varied within the project area with approximately 25-50 percent of the site obscured by vegetation.

The project site had been subject to mass-grading as part of development in Town Center East. Observed sediment consisted of light yellowish brown clayey silt with cobbles, pebbles, and gravel, with a higher concentration of rock at the southern end of the project site. The cobbles, pebbles, and gravel appeared to represent material from a former alluvial fan leading to the existing, and now channelized, water feature immediately adjacent to the project site.

No evidence of prehistoric or historic artifacts or occupation or potentially significant architectural features were observed during the field survey. The historic Clarksville Cemetery, also known as the Old Mormon Cemetery, is located approximately 850 feet north-northeast of the project site.

4.3.2.2 Prehistoric Background

Prehistoric site types include midden deposits (culturally affected soil generally caused by human occupation), bedrock mortars, lithic scatters, ground stone fragments, quarries, as well as petroglyphs and/or pictographs, etc. Sites with prehistoric components are generally located along drainages, on flat

¹ Copies of this correspondence are included in **Appendix 4.3** of this Draft EIR.

ridges and terraces, in areas that contain oak woodlands with rock outcrops and usually on elevated ground slightly away from the water courses.

Early investigations at the Oroville Dam along the Feather River in Butte County have defined the cultural sequences for the region known as the Mesilla, Bidwell, Sweetwater, Oroville, and Historic cultural complexes. The Oroville assemblage and Auburn Ravine material culture appear to reflect prehistoric era diffusion from the higher Sierra and Great Basin and also the Sacramento Valley (Basin 2016).

Mesilla Complex 1000 B.C. and A.D. 1

This complex reflected a highly mobile group, who occupied the foothills, possibly seasonally. The atlatl and dart, as well as processed food tools such as bowl mortars and milling stones, indicate the hunting-gathering economic organization of this complex. The presence of *Haliotis* and *Olivella* shell beads, along with charmstones, bone pins, and spatulae show contact with Sacramento Valley cultures.

Bidwell Complex A.D. 1 and 800

The Bidwell complex phase involved relatively permanent villages with smaller task groups, some of whom moved out to hunt deer and smaller game, fish (with nets), while other groups undertook the processing of hard seeds and acorns (milling stones and likely wooden mortars), and still other task groups collected freshwater mussels. Large slate and basalt projectile points continued, and carved steatite vessels for cooking were added to the food processing inventory while handstones still predominated over mortar and pestles. The dead were buried in flexed, dorsal or lateral positions.

Sweetwater Complex A.D. 800-1500

Olivella bead and *Haliotis* ornament types coupled with the industry of steatite cups, platter, bowls, and tubular smoking pipes are markers of this phase. Small, lightweight projectile points reflect the use of bow and arrow by A.D. 800. About ca. A.D. 1000, interments “evolved” from flexed to extended or semi-extended.

Oroville Complex A.D. 1500 to Epidemic of 1833

The Oroville Complex phase has been attributed to the protohistoric Maidu. Bedrock mortars, likely used earlier, were important for acorn processing, while other seed-grinding implements remained unchanged. Oroville Complex markers consist of incised bird bone tubes, gorge hooks, gaming bones, and clamshell disk beads. A number of different types of structures including large circular dance houses were present. Burials were tightly flexed on their sides, occasionally under stone cairns.

Historic Complex 1833 onward

The initial contact period during the early 19th century resulted in the epidemic of 1829-1833 with an estimated mortality of approximately 75 percent, resulting in Native American village abandonment. As a consequence, the material record of the survivors and their subsequent acculturation as well as their immediate descendants is notably sparse.

4.3.2.3 Ethnographic Background

The aboriginal inhabitants of the project area belonged to a Native American group known as the Nisenan, sometimes referred to as the Southern Maidu, who occupied the drainages of the Yuba, Bear, and American rivers and the lower drainages of the Feather River from the Sacramento River on the west to the crest of the Sierra Nevada in the east. The northern boundary has not been clearly delineated while the southern extent is a few miles south of the American River (Basin 2016). The Nisenan were Penutian speakers; three Nisenan dialects were distinguished by Kroeber (1925) – the Northern Hill Nisenan, Southern Hill Nisenan (or Foothill), and the Valley Nisenan (Basin 2016).

The locations of ethnographic Hill and Valley Nisenan villages were similar, though the foothill Nisenan village sites were smaller. Hill Nisenan villages were located on ridges and large flats along major streams while Valley Nisenan villages were built on low, natural rises along streams and rivers or on gentle slopes with a southern exposure. The village or community group controlled a certain territory and for the most part village locations followed large streams and ridges in the mountains. Villages varied in size from three to seven houses to 40 to 50 houses with an acorn granary. These areas were generally associated with bedrock mortars for acorn processing. A dance house was also a feature of major villages. Family groups often lived away from the main village. In addition to villages, other occupation and use sites included seasonal camps, quarries, ceremonial grounds, trading sites, fishing stations, cemeteries, river crossings, battlegrounds, well-established trails, and physiographic features (Basin 2016).

No known Native American villages, trails, traditional use areas or contemporary use areas have been identified in, adjacent to or near the project site.

In 1833, a great epidemic, probably malaria, swept through the Sacramento Valley with an estimated 75 percent mortality among native populations. In contrast the mountain groups, including the Nisenan, appear to have been spared. In addition, the Valley Nisenan endured missionization by the Spanish and vagaries associated with early European settlement. Captain John Sutter settled in Nisenan territory in 1839 and, in part due to the decimated populations and cultural disruption, made alliances with Miwok

on the Cosumnes River followed by the surviving remnants of the Valley Nisenan. These surviving populations became a source of labor for Sutter and others in the region (Basin 2016).

The Hill/Mountain Nisenan were impacted irreparably by the aftermath of the discovery of gold in January 1848 near the Nisenan village of Culloma (former Sutter's Mill, present-day Coloma) at about 18.6 miles northeast of the project site, and in March 1848 at Mormon Island (Sacramento County) on the south fork of the American River (now under Folsom Lake north of the project site).

Thousands of miners killed native populations and destroyed their villages in the pursuit of gold. The Nisenan who survived subsequently engaged in agriculture, logging, ranching and "domestic pursuits." Despite the impact of the gold rush and United States government policies, descendants of the Nisenan reside in Placer, Nevada, Yuba, and El Dorado Counties (Basin 2016).

4.3.2.4 Historic Period

No recorded Hispanic and/or American Period resources were identified on the project site as part of the CHRIS/NCIC records search conducted for the proposed project.

Hispanic Period (Spanish Colonial and Mexican National)

Between 1769 and 1821, the Spanish philosophy of government in northwestern New Spain² was directed at the founding of presidios, missions, and secular towns with the land held by the Spanish Crown. The later Mexican Period (1822-1848) policy stressed individual ownership of the land (Basin 2016). No known Spanish expedition trails/routes were known within the project area. In addition, none of the Spanish Era concessions (title held by crown) or Mexican Era land grants made between 1841 and 1846 included grants within El Dorado County.

In the 1820s, American and Hudson's Bay Company trappers began trapping and establishing camps in Nisenan territory. Later, a number of these so called 'Mountain Men' proceeded along the periphery of the Sacramento River and also ventured along the American River. Fremont³ and his party travelled along the South Fork of the American River in 1844 (Basin 2016).

² The northwestern New Spain included California, Arizona, Nevada, New Mexico, and Texas.

³ John Charles Fremont—a lieutenant in the Army Topographical Corps—commissioned by the U. S. government to explore and map the Pacific Northwest in order to guide pioneers into the unknown West.

American Period

The first major historical event to impact the project area was the Gold Rush in 1848 along with trails and roads to/from the gold fields and provisioning. This was followed by the admission of the State of California to the United States of America on September 9, 1850. Further growth in the region was stimulated by the establishment of agricultural and ranching operations, the construction of local railroad lines and the opening of the transcontinental railroad in 1869.

El Dorado County is one of the original 27 California counties. The Middle Fork of the American River forms the northern county boundary, the South Fork of the American River flows about mid-county; and, the Cosumnes River/South Fork of the Cosumnes River forms the southern county boundary. Coloma, the initial county seat, was replaced by Placerville in 1857. The county population has increased coincident with the growth of metropolitan/greater Sacramento, the state capitol of California and the county seat of Sacramento County, located approximately 20 miles west of the project site (Basin 2016).

The 1856 General Land Office plat (GLO) shows "Clarkson's Village," Clarksville on the north side of a trail/road (present-day White Rock Road) through the general study area. Clarksville is likely mapped as "Clarkson" on Goddard's 1857 Map of the State of California (Basin 2016). Clarksville, located approximately 1.7 miles east/northeast of the project site, served as a way station on the old Clarksville-White Rock Emigrant Road for emigrants and was a gold rush mining town that quickly developed into a regional trading center for nearby communities. In 1874, a Grange was established at Clarksville. The "Clarksville" post office was established in July 1855 and discontinued in August 1924, only to be re-established in February 1927 and later moved to Folsom City in May 1934 (Basin 2016).

The U.S. 50 Highway from Sacramento to Placerville passed through Clarksville until 1939. The decline of Clarksville as a service center for the region was due to the re-routing of the highway north of the town as well as the construction of a modern supermarket and other facilities elsewhere (Basin 2016).

The Coloma Road, marked out in 1847-1848 by Sutter and his men along the South Fork of the American River, ran from Sutter's Fort (Sacramento) to present-day Folsom and into El Dorado County. Its approximate alignment was later followed by the railroad and U.S. Highway 50 (Basin 2016).

The Placerville & Sacramento Valley Railroad alignment through the general study area was in operation from 1864 onward. At the time, the alignment proceeded from Sacramento/Folsom to White Rock, about 2.3 miles southwest of the project site, and continued south to its terminus at Latrobe, about 8.0 miles south/southeast of the project site. Later construction extended the rails to Shingle Springs. As a result of rail transportation bypassing the town, Clarksville lost most of its freighting business (Basin 2016).

El Dorado Hills, a relatively recent El Dorado County community, is located 22 miles east of Sacramento and continues to expand. In September 1962, the post office was established in El Dorado County as an independent rural station and shortly thereafter in 1966 became a rural branch. In 1977, it was reclassified as community post office of Folsom (located in Sacramento County, about 8 miles northwest of the project site) (Basin 2016).

4.3.3 REGULATORY CONSIDERATIONS

4.3.3.1 Federal Laws and Regulations

National Historic Preservation Act, Section 106

The National Historic Preservation Act (NHPA) establishes the National Register of Historic Places (NRHP), and defines federal criteria for determining the historical significance of archaeological sites, historic buildings and other resources. To be determined eligible for the NRHP, a potential historic property must meet one of four historical significance criteria (listed below), and also must possess sufficient deposition, architectural, or historic integrity to retain the ability to convey the resource's historic significance. Resources determined to meet these criteria are eligible for listing in the NRHP and are termed historic properties. A resource may be eligible at the local, state, or national level of significance.

Properties are eligible for the NRHP if they possess integrity of location, design, setting, materials, workmanship, feeling, and association, and they:

- A. Are associated with events that have made a significant contribution to the broad patterns of our history;
- B. Are associated with the lives of a person or persons of significance in our past;
- C. Embody the distinctive characteristics of a type, period or method of construction, or represent the work of a master, or possess high artistic value, or represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. Have yielded or may be likely to yield information important in prehistory or history.

These factors are known as "Criteria A, B, C, and D."

A resource that lacks integrity or does not meet one of the NRHP criteria of eligibility is not considered a historic property under federal law, and effects to such a resource are not considered significant under the NHPA. Archaeological sites are generally evaluated under Criterion D, which concerns the potential to yield information important in prehistory or history.

Because the project does not require any federal permits, compliance with the NHPA will not be necessary.

4.3.3.2 State Laws and Regulations

California Environmental Quality Act

Under CEQA, public agencies must consider the effects of their actions on both “historical resources” and “unique archaeological resources.” Pursuant to California Public Resources Code (PRC) Section 21084.1, a “project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.” PRC 21083.2 requires agencies to determine whether a proposed project would have an effect on “unique archaeological resources.”

“Historical resource” is a term of art with a defined statutory meaning (see PRC 21084.1 and State CEQA Guidelines Sections 15064.5(a) and 15064.5(b)). The term embraces any resource listed in or determined to be eligible for listing in the California Register of Historic Resources (CRHR). The CRHR includes resources listed in or formally determined eligible for listing in the NRHP, as well as some California State Landmarks and Points of Historical Interest.

Properties of local significance that have been designated under a local preservation ordinance (local landmarks or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the CRHR and are presumed to be “historical resources” for purposes of CEQA unless a preponderance of evidence indicates otherwise (PRC 5024.1 and 14 CCR 4850). Unless a resource listed in a survey has been demolished or has lost substantial integrity, or there is a preponderance of evidence indicating that it is otherwise not eligible for listing, a lead agency should consider the resource potentially eligible for the CRHR.

In addition to assessing whether historical resources potentially impacted by a proposed project are listed or have been identified in a survey process, lead agencies have a responsibility to evaluate them against the CRHR criteria prior to making a finding as to a proposed project’s impacts to historical resources (PRC 21084.1 and State CEQA Guidelines Section 15064.5(a)(3)). In general, a historical resource, under this approach, is defined as any object, building, structure, site, area, place, record, or manuscript that:

- a. Is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, or cultural annals of California; and
- b. Meets any of the following criteria:
 1. Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;

2. Is associated with the lives of persons important in our past;
3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
4. Has yielded, or may be likely to yield, information important in prehistory or history (State CEQA Guidelines Section 15064.5(a)(3)).

These factors are known as “Criteria 1, 2, 3, and 4” and parallel Criteria A, B, C, and D under the NHPA (discussed earlier). The fact that a resource is not listed or determined to be eligible for listing does not preclude a lead agency from determining that it may be a historical resource (PRC 21084.1 and State CEQA Guidelines Section 15064.5(a)(4)).

CEQA also distinguishes between two classes of archaeological resources: archaeological sites that meet the definition of a historical resource, as described above, and “unique archaeological resources.” Under CEQA, an archaeological resource is considered “unique” if it:

- Contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information;
- Has a special and particular quality such as being the oldest of its type or the best available example of its type; or
- Is directly associated with a scientifically recognized important prehistoric or historic event or person (PRC 21083.2(g)).

CEQA states that if a proposed project would result in an impact that might cause a substantial adverse change in the significance of a historical resource, then an EIR must be prepared and mitigation measures should be considered. A “substantial adverse change” in the significance of a historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historical resource would be materially impaired (State CEQA Guidelines Section 15064.5(b)(1)).

The State CEQA Guidelines (Section 15064.5(c)) also provide specific guidance on the treatment of archaeological resources, depending on whether they meet the definition of a historical resource or a unique archaeological resource. If the site meets the definition of a unique archaeological resource, it must be treated in accordance with the provisions of PRC 21083.2.

State CEQA Guidelines Section 15126.4(b) sets forth principles relevant to means of mitigating impacts on historical resources. It provides as follows:

- (1) Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resource will be conducted in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus is not significant.
- (2) In some circumstances, documentation of an historical resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur.
- (3) Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors shall be considered and discussed in an EIR for a project involving such an archaeological site:
 - (A) Preservation in place is the preferred manner of mitigating impacts to archaeological sites. Preservation in place maintains the relationship between artifacts and the archaeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.
 - (B) Preservation in place may be accomplished by, but is not limited to, the following:
 1. Planning construction to avoid archaeological sites;
 2. Incorporation of sites within parks, greenspace, or other open space;
 3. Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site.
 4. Deeding the site into a permanent conservation easement.
 - (C) When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archaeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code. If an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation.
 - (D) Data recovery shall not be required for an historical resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center.

Section 15064.5(f) deals with potential discoveries of cultural resources during project construction. That provision states that, “[a]s part of the objectives, criteria, and procedures required by Section 21082 of the Public Resources Code, a lead agency should make provisions for historical or unique archaeological resources accidentally discovered during construction. These provisions should include an immediate evaluation of the find by a qualified archaeologist. If the find is determined to be an historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work could continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.

State CEQA Guidelines Section 15064.5(e), requires that excavation activities be stopped whenever human remains are uncovered and that the county coroner be called in to assess the remains. If the county coroner determines that the remains are those of Native Americans, the NAHC must be contacted within 24 hours. At that time, the lead agency must consult with the appropriate Native Americans, if any, as identified in a timely manner by the NAHC. Section 15064.5 of the State CEQA Guidelines directs the lead agency (or applicant), under certain circumstances, to develop an agreement with the Native Americans for the treatment and disposition of the remains.

Senate Bill 18

Senate Bill (SB) 18 requires cities and counties to contact, and consult with California Native American tribes prior to making land use decisions. The bill requires local governments to provide notice to tribes at certain key points in the planning process. These consultation and notice requirements apply to adoption and amendment of general plans (defined in Government Code §65300 et seq.). For projects proposed on or after March 1, 2005, the city or county shall conduct consultations with California Native American tribes that are on the contact list maintained by the Native American Heritage Commission (NAHC) for the purpose of preserving or mitigating impacts to places, features, and objects described in Sections 5097.9 and 5097.995 of the Public Resources Code that are located within the city or county’s jurisdiction.

The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage, for the purpose of protecting, or mitigating impacts to, cultural places. The purpose of involving tribes at these early planning stages is to allow consideration of cultural places in the context of broad local land use policy, before individual site-specific, project-level land use decisions are made by a local government.

Assembly Bill 52

AB 52, which was approved in September 2014 and became effective on July 1, 2015, requires that CEQA lead agencies consult with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of a proposed project, if so requested by the tribe. A provision of the bill, chaptered in CEQA Section 21084.2, also specifies that a project with an effect that may cause a substantial adverse change in the significance of a Tribal Cultural Resource (TCR) is a project that may have a significant effect on the environment.

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 CRHR; 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 “nonunique 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(s) 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. As described above, the County is consulting with two tribes regarding the project’s impacts to TCRs, and appropriate mitigation, if any, for those impacts.

4.3.3.3 Local Plans and Policies

County of El Dorado General Plan

The following presents guiding and implementing policies from the current County of El Dorado General Plan (2004) relevant to cultural resources and contained within the Conservation and Open Space Element.

GOAL 7.5: CULTURAL RESOURCES: Ensure the preservation of the County’s important cultural resources.

OBJECTIVE 7.5.1: PROTECTION OF CULTURAL HERITAGE: Creation of an identification and preservation program for the County’s cultural resources.

Policy 7.5.1.3 Cultural resource studies (historic, prehistoric, and paleontological resources) shall be conducted prior to approval of discretionary projects. Studies may include, but are not limited to, record searches through the North Central Information Center at California State University, Sacramento, the Museum of Paleontology, University of California, Berkeley, field surveys, subsurface testing, and/or salvage excavations. The avoidance and protection of sites shall be encouraged.

Policy 7.5.1.6 The County shall treat any significant cultural resources (i.e., those determined California Register of Historical Resources/National Register of Historic Places eligible and unique paleontological resources), documented as a result of a conformity review for ministerial development, in accordance with CEQA standards.

4.3.4 IMPACTS AND MITIGATION MEASURES

4.3.4.1 Significance Criteria

In accordance with Appendix G of the *California Environmental Quality Act (CEQA) Guidelines*, the impact of the proposed project related to cultural and tribal cultural resources would be considered significant if it would:

- Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5;

- Cause a substantial adverse change in the significance of archaeological resource pursuant to Section 15064.5;
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature;
- Disturb any human remains, including those interred outside of formal cemeteries; or
- 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 America tribe, and that is:
 - Listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or
 - 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 the Public Resources Code Section 5024.1. In applying criteria set forth in subdivision (c) of the Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

4.3.4.2 Issues adequately addressed in the Initial Study

All cultural and tribal cultural resources thresholds are addressed below.

4.3.4.3 Methodology

The analysis below compares identified impacts based on information from the *Archaeological Resources Assessment Report* prepared for this project to the standards of significance stated above and determines the impact's level of significance under CEQA. If the impact is determined to be significant, the analysis identifies feasible mitigation measures to eliminate the impact or reduce it to a less-than-significant level. If the impact cannot be reduced to a less-than-significant level after implementation of all feasible mitigation measures, then the impact is identified as significant and unavoidable. The project's potential contribution to cumulative impacts is also identified.

4.3.4.4 Project Impacts and Mitigation Measures

Impact CUL-1: The proposed project would not cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5. (No Impact)

The project site is vacant and undeveloped. No listed, determined or pending CRHR resources have been identified in or adjacent to the project site as part of the records search conducted for the proposed project. In addition, no local, state or federal historically or architecturally significant structures,

landmarks, or points of interest have been identified within or adjacent to the project site (Basin 2016). As there are no features of the built environment on the project site or significant historical resources adjacent to the project site, implementation of the proposed project would have no impact on historical resources.

Mitigation Measures: No mitigation measures are required.

Impact CUL-2: **The proposed project could cause a substantial change in the significance of an archaeological resource pursuant to Section 15064.5. (*Potentially Significant; Less than Significant with Mitigation*)**

The project site is vacant and mass-grading undertaken as part of the development in the Town Center East has resulted in extensive surface and subsurface disturbance (Basin 2016). Records searches did not identify any archaeological resources within or adjacent to the project site. In addition, no known Hispanic Period expeditions or structures have been reported and no American Period archaeological sites have been recorded or reported in or adjacent to the project site.

During the field survey, no evidence of significant prehistoric or historically significant archaeological resources was observed at the project site. However, based on previous studies and archaeological field inventories, the project site is located in a general area of moderate sensitivity for prehistoric and historic resources (Basin 2016). Construction associated with the proposed project could result in the inadvertent exposure of buried prehistoric or historic archaeological materials that could be eligible for inclusion on the CRHR (Public Resources Code Section 5024.1) and/or meet the definition of a unique archeological resource as defined in Section 21083.2 of the Public Resources Code. Any inadvertent damage to prehistoric and/or historic-period archaeological resources represents a potentially significant impact. Implementation of **Mitigation Measure CUL-2** would ensure that impacts of the proposed project on currently unknown prehistoric and historic-period archaeological resources would be less than significant, should any be encountered during construction.

Mitigation Measures:

CUL-2 El Dorado County shall note on any plans that require ground disturbing excavation that there is a potential for exposing buried cultural resources, including prehistoric Native American burials.

The project applicant shall inform the United Auburn Indian Community of the Auburn Rancheria and the Shingle Springs Band of Miwok Indians of the project construction schedule and allow for a tribal monitor to be present at the project site during grading activities in native soil.

The project applicant shall retain a Professional Archaeologist to provide a pre-construction briefing to supervisory personnel of the excavation contractor to alert them to the possibility of exposing significant prehistoric archaeological resources within the project site. The briefing shall discuss any archaeological objects that could be exposed, the need to stop excavation at the discovery, and the procedures to follow regarding discovery protection and notification of the project applicant and archaeological team. The Professional Archaeologist shall develop and distribute for job site posting an "ALERT SHEET" summarizing potential find types and the protocols to be followed as well as points of contact to alert in the event of a discovery. The tribal monitor will be provided an opportunity to attend the pre-construction briefing.

The Professional Archaeologist shall be available on an "on-call" basis during ground disturbing construction in native soil to review, identify and evaluate cultural resources that may be inadvertently exposed during construction. The archaeologist shall temporarily divert, redirect, or halt ground disturbance activities at a potential discovery to allow the identification, review and evaluation of a discovery to determine if it is a historical resource(s) and/or unique archaeological resource(s) under CEQA.

If the Professional Archaeologist determines that any cultural resources exposed during construction constitute a historical resource and/or unique archaeological resource, he/she shall notify the project applicant and other appropriate parties of the evaluation and recommend mitigation measures to mitigate to a less-than significant impact in accordance with California Public Resources Code Section 15064.5. Mitigation measures may include avoidance, preservation in-place, recordation, additional archaeological testing and data recovery among other options. Contingency funding and a time allotment sufficient for recovering an archeological sample or to employ an avoidance measure may be required. The completion of a formal Archaeological Monitoring Plan (AMP) may be recommended by the archaeologist if significant archaeological deposits are exposed during ground disturbing construction. Development and implementation of the AMP will be determined by the County of El Dorado and treatment of any significant cultural resources shall be undertaken with the approval of the project applicant and the County.

A Monitoring Closure Report shall be filed with the County of El Dorado at the conclusion of ground disturbing construction if archaeological resources were encountered and/or recovered.

Significance after Mitigation: Less than significant

Impact CUL-3: **The proposed project would not directly or indirectly destroy a unique paleontological resource or site of unique geologic feature. (*No Impact*)**

Paleontological remains are found in sedimentary rock formations. El Dorado County's geology is predominantly igneous (volcanic) in nature and the type of sedimentary deposits where such remains might be present are virtually nonexistent. The project site is underlain by the Jurassic-aged Copper Hill Volcanics that are composed primarily of mafic to andesitic pyroclastic rocks, lava, and pillow lava with subordinate felsic porphyritic and pyroclastic rocks. These rocks date from about 200-145 million years ago. The Copper Hill Volcanics are unlikely to contain paleontological resources (Wallace-Kuhl 2013).

A search of the University of California, Museum of Paleontology (UCMP) database was conducted on May 6, 2017. The database did not list any paleontological resources from the Copper Hill Volcanics. The UCMP database did not list any paleontological localities of any kind for the USGS Clarksville, Calif. 1980 quadrangle (Basin 2017). Therefore, the proposed project would have no impact on paleontological resources.

Mitigation Measures: No mitigation measures are required.

Impact CUL-4: **The proposed project could disturb human remains, including those interred outside of formal cemeteries. (*Potentially Significant; Less than Significant with Mitigation*)**

As discussed above, the project site is not located in an area with known prehistoric or historic period archaeological resources. As a result, it is unlikely that any human remains are present in the areas that would be affected by excavation. However, should such remains be discovered and damaged during project construction, the impact would be considered potentially significant. With the implementation of **Mitigation Measure CUL-4**, which outlines procedures to be followed in the event that previously unidentified human remains are discovered, the impact would be reduced to a less than significant level.

Mitigation Measures:

CUL-4 The treatment of human remains and any associated or unassociated funerary objects discovered during any soil-disturbing activity within the project site shall comply with applicable State laws. This shall include immediate notification of the El Dorado County Sheriff-Coroner and the County of El Dorado.

In the event of the Coroner's determination that the human remains are Native American, the coroner must contact the NAHC within 24 hours. The NAHC shall identify a Most Likely Descendant (MLD) of the deceased Native American (PRC Section 5097.98). The MLD may then make recommendations to the landowner or the person responsible for the excavation work, for the means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98. Development activity on the impacted site will halt until the landowner has conferred with the MLD about their recommendations for treatment of the remains, and the coroner has determined that the remains are not subject to investigation under California Government Code Section 27491.

The project applicant, archaeological consultant, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. The California PRC allows 48 hours to reach agreement on these matters. If the MLD and the other parties do not agree on the reburial method, the project will follow PRC Section 5097.98(b) which states that ". . . the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance."

Significance after Mitigation: Less than significant



Impact CUL-5: **The proposed project could cause a substantial adverse change in the significance of a tribal cultural resource. (*Potentially Significant; Less than Significant with Mitigation*)**

AB 52 requires that lead agencies consider the effects of projects on tribal cultural resources and conduct consultation with federally and non-federally recognized Native American tribes early in the environmental review process. According to AB 52, it is the responsibility of the tribes to formally request of a lead agency that they be notified of projects in the lead agency’s jurisdiction so that they may request consultation. On April 24, 2017⁴ El Dorado County sent out notification letters about the proposed project to Native American tribes identified by the NAHC and through the Senate Bill (SB) 18 and Assembly Bill (AB) 52 processes. Letters were received from two tribes (the United Auburn Indian Community of the Auburn Rancheria and the Shingle Springs Band of Miwok Indians) requesting formal consultation. The tribes asked to discuss the topics listed in Public Resources Code Section 21080.3.2(a), including the type of environmental review to be conducted for the project, project alternatives; the project’s significant effects, and mitigation measures for any direct, indirect, or cumulative impacts the project may cause to tribal cultural resources. In addition, the tribes requested that tribal representatives observe and participate in all cultural resource surveys and that if tribal cultural resources are identified within the project area that tribal monitors be present for all ground disturbing activities. Pursuant to AB 52, consultation with the tribes is ongoing on all issues, including the proposed mitigation, and the County will make the required findings regarding mitigation when consultation concludes.

The County has determined that the analysis included in the Draft EIR satisfies the requests made by the tribes, and that with the implementation of **Mitigation Measures CUL-2** and **CUL-4**, the proposed project would have a less than significant impact on tribal cultural resources, should they be encountered during excavation. As a result, the proposed project would not adversely affect any known or unknown tribal cultural resources in the area. The impact would be less than significant.

Mitigation Measures: Implement **Mitigation Measures CUL-2** and **CUL-4**.

Significance after Mitigation: Less than significant

⁴ Copies of this correspondence are included in **Appendix 4.3** of this EIR.

4.3.4.5 Cumulative Impacts and Mitigation Measures

Cumulative Impact C-CUL-1: Cumulative development could cause a substantial change in the significance of a historical resource or unique archaeological resource pursuant to Section 15064.5 or impact tribal cultural resources, but with the incorporation of mitigation measures, the proposed project would not contribute substantially to the cumulative impacts. *(Potentially Significant; Less than Significant with Mitigation)*

Development in the region could result in the damage or destruction of known archaeological and historical resources, as well as any existing undiscovered subsurface artifacts. The general study area that includes El Dorado County is known to include both prehistoric and historic cultural resources. Although no prehistoric or historically significant archaeological resources or potentially significant architectural resources were discovered during the field survey, there is a moderate possibility that prehistoric and historic resources are located in the vicinity.

Numerous laws, regulations, and statutes seek to protect cultural resources. These would apply to all development within the study area. In addition, the El Dorado County General Plan includes policies for the protection of cultural resources from unnecessary impacts. These policies include protection of historical resources and Native American remains. As discussed in **Impacts CUL-1** and **CUL-2**, no known historic resources or archaeological resources are present on the project site that could be affected by the proposed development. In addition, as discussed in **Impact CUL-4**, it is unlikely that any human remains are present in the areas that would be affected by excavation. However, previously unknown archaeological resources or human remains could be encountered and/or disturbance of resources and human remains could occur during site grading and excavation. By ensuring that cultural resources discovered within the project site are properly recorded and handled, with implementation of **Mitigation Measure CUL-2**, the contribution of the proposed project to cumulative impacts on archaeological resources would not be cumulatively considerable. In addition, by ensuring that human remains and any associated or unassociated funerary objects are treated in compliance with applicable State laws by implementation of **Mitigation Measure CUL-4**, the contribution of the proposed project to cumulative impacts on human remains would not be cumulatively considerable. The impact would be less than significant.

Mitigation Measures: Implement **Mitigation Measures CUL-2** and **CUL-4**.

Significance after Mitigation: Less than significant

4.3.5 REFERENCES

Basin Research Associates. 2016. Archaeological Resources Assessment Report. El Dorado Hills Apartments, Unincorporated El Dorado Hills, El Dorado County. May.

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County of El Dorado. 2004. *El Dorado County General Plan - Conservation and Open Space Element*. Adopted July 19, 2004. Last amended December 2015.

Wallace-Kuhl. 2013. Geotechnical Engineering Report. El Dorado Hills Apartments. December 4.