

Appendix A

Notice of Preparation and
Scoping Comments



DEVELOPMENT SERVICES – PLANNING

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NOTICE OF PREPARATION OF A SUBSEQUENT ENVIRONMENTAL IMPACT REPORT

DATE: February 18, 2022

TO: Responsible and Trustee Agencies, Organizations, and Interested Parties

LEAD AGENCY: City of Elk Grove
Contact: Christopher Jordan, Director of Strategic Planning and Innovation
8401 Laguna Palms Way
Elk Grove, CA 95758

SUBJECT: Subsequent Environmental Impact Report for the City of Elk Grove General Plan Amendments and Update of Vehicle Miles Traveled Standards

In discharging its duties under Section 15021 of the California Environmental Quality Act (CEQA) Guidelines, the City of Elk Grove (as lead agency, hereinafter “City” or “Elk Grove”) intends to prepare a subsequent environmental impact report (SEIR), consistent with Section 15162 of the State CEQA Guidelines (Title 14 of the California Code of Regulations, hereinafter the “CEQA Guidelines”), for the General Plan Amendments and Update of Vehicle Miles Traveled Standards (the “Project,” described later in this document). In accordance with Section 15082 of the CEQA Guidelines, the City has prepared this notice of preparation (NOP) to provide the Office of Planning and Research, responsible and trustee agencies, and other interested parties with sufficient information describing the Project and its potential environmental effects.

The City made the determination to prepare an SEIR following preliminary review of the Project. Pursuant to CEQA Guidelines Section 15063(a), because an EIR is needed, an initial study has not been prepared. Probable environmental effects of the Project are described in the attached Project summary.

As specified by the CEQA Guidelines, the NOP will be circulated for a 30-day review period. The comment period runs from February 18, 2022 to March 21, 2022. The City welcomes public input during the review period. If the City has not received either a response or a well-justified request for additional time by a responsible agency by the end of the review period, the City may presume that the responsible agency has no response (CEQA Guidelines Section 15082[b][2]).

CEQA provides for a Lead Agency to facilitate one or more Scoping Meetings, which provide opportunity for determining the scope and content of the EIR. Traditionally, the City hosts one Scoping Meeting for agencies and the general public during the NOP comment period. In accordance with State and local health orders limiting in-person public meetings, the City is providing an alternative method for the Scoping Meeting. A video presentation by staff, introducing the Project and outlining the CEQA process, is available for review at the website URL listed below. The website also provides a method for directly providing comments. This video and comment opportunity will be available at the above link throughout the NOP comment period (February 18, 2022 to March 21, 2022).

Comments may also be submitted in writing during the review period and addressed to:

City of Elk Grove
Office of Strategic Planning and Innovation
c/o Christopher Jordan
8401 Laguna Palms Way
Elk Grove, CA 95758
cjordan@elkgrovecity.org
http://www.elkgrovecity.org/city_hall/departments_divisions/city_manager/strategic_planning_and_innovation/kammerer_road_urban_design_study

PROJECT LOCATION AND SETTING

The City is located in Sacramento County and consists of approximately 42.7 square miles within its boundary (see Figure 1). Land uses are regulated under the City General Plan, which was comprehensively updated in 2019. The City General Plan established a Planning Area (approximately 31,238 acres) that includes lands outside the current City limits. Existing land uses in the City consist of residential at varying densities, commercial, office, industrial, park, and open space (see Figure 2). The Planning Area primarily consists of agricultural lands and rural residential uses. Nearby natural open space and habitat areas include the Stone Lakes National Wildlife Refuge and the Sacramento River to the west, the Cosumnes River Preserve to the south, and the Regional County Sanitation District bufferlands to the northwest. Major roadway access to the City is provided by Interstate 5 and State Route 99.

PROJECT DESCRIPTION

The Project consists of the following components that are further described below: General Plan amendments to establish the Livable Employment Area Community Plan (Livable Employment Area Community Plan); update of City vehicle miles traveled (VMT) thresholds and guidelines (VMT Update); incorporation of siting for the future Zoo (Zoo Site); and various other General Plan land use adjustments.

Livable Employment Area Community Plan

The Kammerer Road Urban Design Study established a new vision for development along the Kammerer Road and Promenade Parkway corridors as well as redefined the cross-section for Kammerer Road itself. The Livable Employment Area Community is the implementation of the Kammerer Road Urban Design Study that consists of amendments to the General Plan Land Use Diagram and to General Plan chapters 2 (Vision), 3 (Planning Framework), 4 (Rural and Urban Development), 5 (Economic Development) 6 (Mobility), 9 (Community and Area Plans), and 10 (Implementation) to establish Transect-based land use designations and policy provisions for the development of a mixed-use (residential, live-work spaces, retail, and office uses) neighborhood at varying intensities and heights (see summary below). Figure 3 identifies the proposed land use designation changes to the General Plan Land Use Diagram. This action would not expand the City’s boundaries or study areas. As part of this change, the Southeast Policy Area (SEPA) Community Plan and South Pointe Policy Area (South Point) would be reduced and the Lent Ranch project area would be eliminated, with the new Livable Employment Area Community Plan taking their place. The new Livable Employment Area Community Plan would also serve as an overlay to portions of the South Study Area, providing land use and planning guidance for future annexation applications in that area, supplementing the provisions of the South Study Area Land Use Program provided in Chapter 4 (Rural and Urban Development).

Four new General Plan Land Use Designations would be established as part of the Project. These would be applied within the Livable Employment Area Community Plan and are summarized below.

Proposed Transect-Based Land Use Designations

General Neighborhood Residential (T3-R) Development Characteristics	
Residential Density:	Minimum: 10.0 du/ac Maximum: 20.0 du/ac
Building Intensity:	Maximum FAR of 1.0

General Neighborhood Residential (T3-R)
General Neighborhood uses are typically characterized by small-lot single-family residential development (attached or detached), duplexes, townhomes, and small apartment buildings, but may also include small live-work spaces, home-offices or workspaces, and bed and breakfast inns. Limited amounts of local serving retail and small office structures, particularly at intersections are also permitted. Generally, buildings, are not taller than 3 stories, and are surface parked, in the side or rear of the lot.

Neighborhood Center Low (T3) Development Characteristics	
Residential Density:	Minimum: 14.0 du/ac Maximum: 30.0 du/ac
Building Intensity:	Maximum FAR of 2.0

Neighborhood Center Low (T3)
Neighborhood Center Low includes the same uses and densities as T3-R, however, a mix of uses is permitted throughout, with no preference provided for residential uses. Typically, buildings, are not taller than 3 stories, and are surface parked, in the side or rear of the lot.

Neighborhood Center Medium (T4) Development Characteristics	
Residential Density:	Minimum: 20.0 du/ac Maximum: 40.0 du/ac
Building Intensity:	Maximum FAR of 5.0

Neighborhood Center Medium (T4)
Neighborhood Center Medium uses are typically characterized by Neighborhood Center Medium includes a diverse mix of uses at higher intensities than T3. Residential building types generally include townhomes and urban apartment buildings, as well as live-work spaces. Retail, hotel, and office uses are permitted. Generally, buildings, are not taller than 5 stories, and may have a mix of garage and or surface parking in the rear of the lot or the middle of the block, screened from view.

Neighborhood Center High (T5) Development Characteristics	
Residential Density:	Minimum: 40.0 du/ac Maximum: 100.0 du/ac
Building Intensity:	Maximum FAR of 7.0

Neighborhood Center High (T5)
Neighborhood Center High includes a diverse mix of uses at higher intensities than T4. Many individual buildings may have a mix of uses. Residential building types generally include apartment buildings as well as live-work spaces. Retail and Office uses as are hotels. Typically, buildings, are not taller than 7 stories, and will have garage screened from view or below ground.

VMT Update

This Project would upgrade the City's Travel Demand Model from SACSIM15 to SACSIM19. The City's vehicle miles traveled (VMT) thresholds and guidelines would be updated based upon the new model and a new threshold for transportation projects would be established. The VMT Update would develop a new VMT screening tool for development projects (and potentially transportation projects) that cannot be screened out based on project characteristics or location but are generally too small to warrant a full model run.

Zoo Site

The Project would, as part of the Livable Employment Area Community Plan, designate an approximately 60-acre site for a future zoo. The site would be designated as Park on the General Plan Land Use Plan (see Figure 4). The design and details of operation of the Zoo would be developed as part of a separate project and environmental review. No land use entitlements to allow construction and operation of the Zoo would occur as part of this action. This Subsequent EIR would programmatically evaluate the conceptual design of the Zoo Site, including consideration of animal habitats, restaurants, parking, and support services for the animals and patrons. The anticipated annual attendance for the zoo is 1,000,000 patrons.

Other Land Use Adjustments

The Project also consists of various other adjustments to the General Plan Land Use Plan, including amendments in the Old Town area. The revisions allow for more mixed-use development along the corridor, with residential uses up to 40 dwelling units per acre, building heights up to 45 feet tall, and floor-area-ratios (FAR) up to 2.0, dependent upon land use district.

Table 1. Summary of Proposed Old Town Development Standards

Zone	Residential Density (units per acre)		Non-Residential FAR		Height (feet)	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Commercial Mixed Use	15.1	40.0	n/a	1.0	25	45
Village Mixed-Use	12.1	40.0	n/a	2.0	30	45
Neighborhood Mixed-Use	15.1	40.0	n/a	2.0	25	45
High Density Residential	15.1*	40.0	n/a	n/a	25	40
Low Density Residential	4.1	7.0	n/a	n/a	n/a	30

Note: In the High Density Residential zone, sites identified in the Housing Element of the General Plan as contributing to meeting the City’s share of the Regional Housing Needs Allocation have a minimum density of 20.1 units per acre.

General Plan Development Capacity

The proposed revisions to the General Plan would result in an update to the development capacity as provided in Table 3-2 of the General Plan. Revisions to the table are shown below in Table 2, with deletions shown in ~~strikeout~~ and additions in bold.

Table 2. Revisions to General Plan Development Capacity

	Acres	Dwelling Units	Population ¹	Employment (Jobs)	Jobs/Housing Ratio
Existing Development Total ²	31,449	53,829	171,059	45,463	0.84
General Plan Total	34,956	102,865 104,716	332,254 338,233	127,463 123,923	1.24 1.18
City Limits	29,946	72,262 76,906	233,406 248,406	81,784 72,788	
Study Areas Subtotal	8,008	30,603 27,810	98,848 89,826	45,679 51,135	
North Study Area	646	323	1,043	0	
East Study Area	1,772	4,806	15,523	9,183	
South Study Area	3,675	16,250 12,320	52,488 39,764	30,367 36,332	
West Study Area	1,915	9,224 10,361	29,794 33,466	6,129 5,620	

Table Notes: Number may not sum due to rounding

1. Based on 3.23 persons per household, average.

2. Existing development represents 2017 population and dwelling unit information and derived from 2013 jobs data (the most current year available at the time of writing the General Plan).

REQUIRED APPROVALS

Actions to be taken by the City to adopt the Project include, but are not limited to:

- ▶ certification of the SEIR prepared for the Project,
- ▶ adoption of General Plan amendments that accomplish the following:
 - Comprehensive update to the Southeast Area Community Plan, removing XXX acres
 - Elimination of the Lent Ranch Policy Area
 - Creation of the Livable Employment Area Community Plan
 - Comprehensive update to the Planning Framework (Chapter 3 of the General Plan), including the Land Use Plan and Transportation Plan,
 - Revisions to the Mobility Chapter (Chapter 6) of the General Plan to reflect the transfer of transit services to Sacramento Regional Transit,
 - Revisions to Chapters 2 (Vision), 4 (Urban and Rural Development), 5 (Economy and the Region), and 10 (Implementation) for internal consistency of the General Plan,
- ▶ adoption of new Zoning provisions for the Livable Employment Area Community Plan area, and
- ▶ adoption of the updated City's VMT thresholds and guidance.

PROBABLE ENVIRONMENTAL EFFECTS

The SEIR will evaluate whether implementing the proposed Project would potentially result in one or more significant environmental effects. The following issue areas will be addressed in the SEIR:

- ▶ Aesthetics
- ▶ Air Quality
- ▶ Cultural and Tribal Cultural Resources
- ▶ Energy
- ▶ Greenhouse Gases and Climate Change
- ▶ Noise and Vibration
- ▶ Population and Housing
- ▶ Public Services
- ▶ Recreation
- ▶ Transportation
- ▶ Utilities and Service Systems

Issues Scoped Out from Analysis in the EIR

The City anticipates that the Project would have less-than-significant or no impacts on the following environmental issue areas. These areas will not be discussed in the SEIR for the reasons discussed below.

Agriculture and Forestry Resources

No forestry resources or timberlands are in the City or its Planning Area. The EIR certified for the City's 2019 General Plan Update evaluated the potential for impacts on agricultural resources in the City's Planning Area. Because this issue

was evaluated in that document and no additional agricultural impacts (no change in the City's planned development footprint) would occur because of implementing the General Plan Amendments, this issue will not be discussed in the SEIR.

Biological Resources

The EIR certified for the City's 2019 General Plan Update evaluated the potential for impacts on biological resources in the City's Planning Area. Because the Project would not change the extent of land disturbance from what was evaluated in the General Plan Update EIR (no change in the City's planned development footprint), this issue will not be discussed in the SEIR.

Geology and Soils

The EIR certified for the City's 2019 General Plan Update evaluated the potential for impacts related to geology and soils in the City's Planning Area. Because the Project would not change the extent or character of land disturbance from what was evaluated in the General Plan Update EIR (no change in the City's planned development footprint), this issue will not be discussed in the SEIR.

Hazards and Hazardous Materials

The EIR certified for the City's 2019 General Plan Update evaluated the potential for impacts related to hazards and hazardous materials in the City's Planning Area. Because the Project would not change the extent or character of land disturbance from what was evaluated in the General Plan Update EIR (no change in the City's planned development footprint) or introduce a new land use that could create hazards, this issue will not be discussed in the SEIR.

Hydrology and Water Quality

The EIR certified for the City's 2019 General Plan Update evaluated the potential for impacts related to hydrology and water quality in the City's Planning Area. Because the Project would not change the extent or character of land disturbance from what was evaluated in the General Plan Update EIR (no change in the City's planned development footprint), this issue will not be discussed in the SEIR.

Land Use and Planning

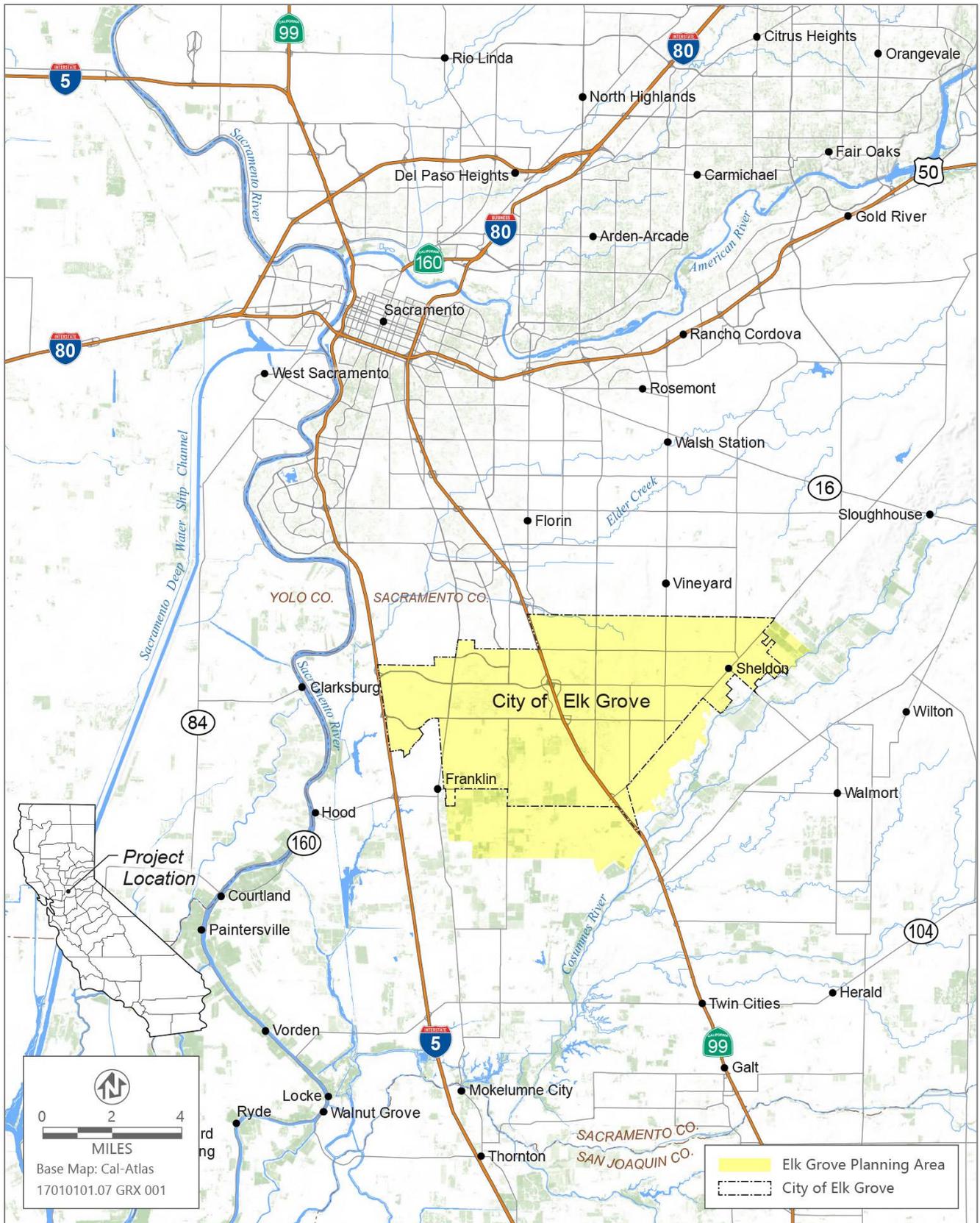
The EIR certified for the City's 2019 General Plan Update evaluated the potential for impacts related to land uses and plans in the City's Planning Area. Because the Project would not change the extent or character of land disturbance from what was evaluated in the General Plan Update EIR (no change in the City's planned development footprint), this issue will not be discussed in the SEIR.

Mineral Resources

No significant mineral resources have been identified in the City. The Project would not change the extent of land disturbance from what was evaluated in the General Plan Update EIR (no change in the City's planned development footprint). Therefore, this issue will not be discussed in the SEIR.

Wildfire

The City is not located in or near a Very High Fire Hazard Severity Zone. Therefore, there would not be a significant impact related to wildfire, and this issue will not be discussed in the SEIR.



Source: Ascent Environmental 2019

Figure 1 Regional Location Map

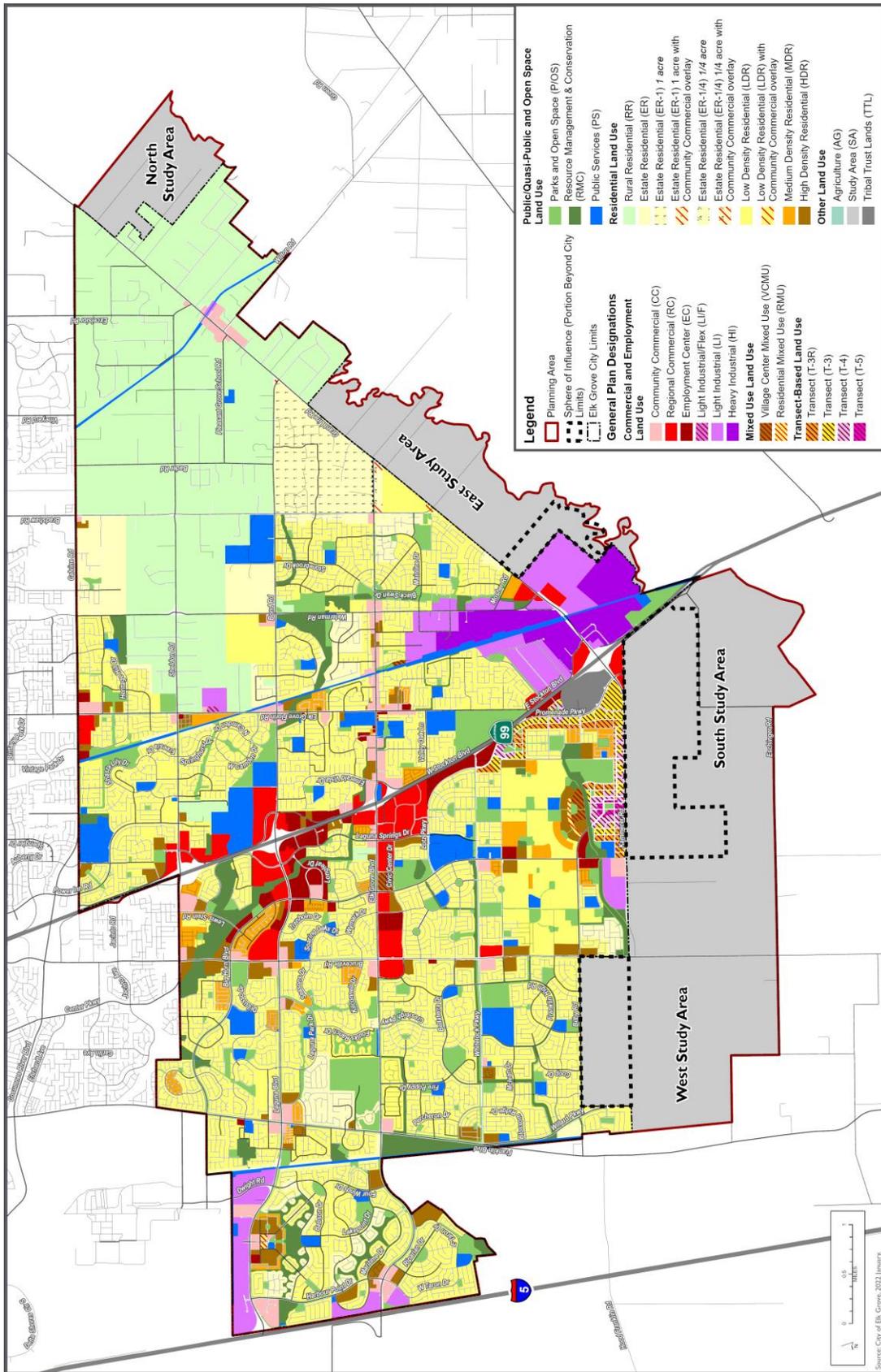


Figure 2 Proposed General Plan Land Use Map

NATIVE AMERICAN HERITAGE COMMISSION

February 22, 2022

Governor's Office of Planning & Research

Feb 25 2022

Christopher Jordan
City of Elk Grove
8401 Laguna Palms Way
Elk Grove, CA 95758

STATE CLEARING HOUSE

Re: 2022020463, General Plan Amendments and Update of Vehicle Miles Traveled Standards Project, Sacramento County

Dear Mr. Jordan:

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

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

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

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



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

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

 - a.** A brief description of the project.
 - b.** The lead agency contact information.
 - c.** Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d.** A “California Native American tribe” is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subs. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1 (b)).

 - a.** For purposes of AB 52, “consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

 - a.** Alternatives to the project.
 - b.** Recommended mitigation measures.
 - c.** Significant effects. (Pub. Resources Code §21080.3.2 (a)).
- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:

 - a.** Type of environmental review necessary.
 - b.** Significance of the tribal cultural resources.
 - c.** Significance of the project's impacts on tribal cultural resources.
 - d.** If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

 - a.** Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b.** Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a.** Avoidance and preservation of the resources in place, including, but not limited to:
 - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i.** Protecting the cultural character and integrity of the resource.
 - ii.** Protecting the traditional use of the resource.
 - iii.** Protecting the confidentiality of the resource.
 - c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

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

SB 18

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

Some of SB 18's provisions include:

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

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

NAHC Recommendations for Cultural Resources Assessments

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

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

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

If you have any questions or need additional information, please contact me at my email address: Pricilla.Torres-Fuentes@nahc.ca.gov.

Sincerely,

Pricilla Torres-Fuentes

Pricilla Torres-Fuentes
Cultural Resources Analyst

cc: State Clearinghouse

