

Comments Letter E
San Diego County Archaeological Society, Inc.
Environmental Review Committee

14 September 2014

To: Mr. Robert Hingtgen
Department of Planning and Development Services
County of San Diego
5510 Overland Avenue, Suite 310
San Diego, California 92123

Subject: Draft Environmental Impact Report
Shadow Run Ranch
PDS2001-3100-5223, PDS2000-3300-00-030, PDS2000-3710-00-0205
Log No. PDS-2000-3910-0002035

Dear Mr. Hingtgen:

I have reviewed the cultural resources aspects of the subject DEIR on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in the DEIR and its Appendix D, we have the following comments:

1. The copy of Appendix D posted on the County's website includes site locational information, in the form of site maps. Examples include Figures 5, 6 and 7, but there are more. This is a violation of the prohibition of site location disclosure. Those maps should have been removed from the public review copy. The County must take immediate action to correct this error.
2. The treatment of cultural resources in Appendix D is comprehensive and we concur with its significance assessment of the various sites.
3. We also concur with cultural resources mitigation measures M-CR-1, M-CR-2, M-CR-3 and M-CR-4 as included in Section 2.5 of the DEIR, though the mitigation measures should note the process to be followed should any human remains be encountered.

Response to Comments Letter

1. The County acknowledges this comment. The study has been removed from the County's website. The figures will be removed from the formal study and placed in the confidential appendix prior to notification for the Planning Commission hearing. No changes were made to CEQA documentation as a result of this comment.
2. The County acknowledges this comment. This comment is noted.
3. The County acknowledges this comment. Should human remains be identified, the developer is required to consult with the Most Likely Descendant pursuant to Public Resources Code Section 5097.98. In addition, the project would also be required to follow Public Resources Code §5097.98, CEQA §15064.5 and Health & Safety Code §7050.5. Final Grading Condition CULT#GR-2 on Sheet 4 of the Preliminary Grading Plan includes text that identifies the regulations that must be adhered to should human remains be identified. In addition, DEIR mitigation measure M-CR-3 has been revised to read as follows:

M-CR-3 Grading Monitoring Program for Archaeological Resources During Construction

INTENT: In order to comply with the County of San Diego *Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources*, a Cultural Resource Grading Monitoring Program shall be implemented.

DESCRIPTION OF REQUIREMENT: The Project Archaeologist and Luiseno Native American Monitor shall monitor the original cutting of previously undisturbed deposits in all areas identified for development including off-site improvements. The archaeological monitoring program shall comply with the following requirements during earth-disturbing activities:

a. During the original cutting of previously undisturbed deposits, the Project Archaeologist and Luiseno Native American Monitor shall be onsite as determined necessary by the Project Archaeologist. Inspections will vary based on the rate of excavation, the materials excavated, and the presence and abundance of artifacts and features. The frequency and location of inspections will be determined by the Project Archaeologist in consultation with the Luiseno Native American Monitor. Monitoring of the cutting of previously disturbed deposits will be determined by the Project Archaeologist in consultation with the Luiseno Native American Monitor.

- 3 cont. b. In the event that previously unidentified potentially significant cultural resources are discovered, the Project Archaeologist or the Luiseno Native American Monitor, shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant cultural resources. At the time of discovery, the Project Archaeologist shall contact the PDS Staff Archaeologist. The Project Archaeologist, in consultation with the PDS Staff Archaeologist and the Luiseno Native American Monitor, shall determine the significance of the discovered resources. Construction activities will be allowed to resume in the affected area only after the PDS Staff Archaeologist has concurred with the evaluation. Isolates and clearly non-significant deposits shall be minimally documented in the field. Should the isolates and/or non-significant deposits not be collected by the Project Archaeologist, then the Luiseno Native American monitor may collect the cultural material for transfer to a Tribal Curation facility or repatriation program. A Research Design and Data Recovery Program (Program) is required to mitigate impacts to identified significant cultural resources. The Research Design and Data Recovery Program shall be prepared by the Project Archaeologist in coordination with the Luiseno Native American Monitor. The County Archaeologist shall review and approve the Program, which shall be carried out using professional archaeological methods. The Program shall include (1) reasonable efforts to preserve (avoidance) "unique" cultural resources or Sacred Sites; (2) the capping of identified Sacred Sites or unique cultural resources and placement of development over the cap, if avoidance is infeasible; and (3) data recovery for non-unique cultural resources. The preferred option is preservation (avoidance).
- c. If any human remains are discovered, the Property Owner or their representative shall contact the County Coroner and the PDS Staff Archaeologist. Upon identification of human remains, no further disturbance shall occur in the area of the find until the County Coroner has made the necessary findings as to origin. If the remains are determined to be of Native American origin, the Most Likely Descendant (MLD), as identified by the Native American Heritage Commission (NAHC), shall be contacted by the Property Owner or their representative in order to determine proper treatment and disposition of the remains. The immediate vicinity where the Native American human remains are located is not to be damaged or disturbed by further development activity until consultation with the MLD regarding their recommendations as required by Public Resources Code Section 5097.98 has been conducted. Public Resources Code §5097.98, CEQA §15064.5 and Health & Safety Code §7050.5 shall be followed in the event that human remains are discovered.
- d. The Project Archaeologist shall submit monthly status reports to the Director of PDS starting from the date of the Notice to Proceed to termination of implementation of the grading monitoring program. The reports shall briefly summarize all activities during the period and the status of progress on overall plan implementation. Upon completion of the implementation phase, a final report shall be submitted

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4. We note that the testing collections from site SDI-9357/H have already been curated, as have a few recovered artifacts from SDI-266, SDI-714 and SDI-731. The mitigation measures will, as required by the Register of Professional Archaeologists' *Standards of Research Performance* and *Code of Conduct*, provide for the curation of the collections that result, other than any human remains and associated burial goods.

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Thank you for providing SDCAS this opportunity to review and comment upon this project's environmental documents.

Sincerely,

Environmental Review Committee

cc: Professional Archaeological Services
SDCAS President
File

- 3 cont. describing the plan compliance procedures and site conditions before and after construction.

DOCUMENTATION: The applicant shall implement the Archaeological Monitoring Program pursuant to this condition.

TIMING: The following actions shall occur throughout the duration of earth disturbing activities.

MONITORING: The [DPW, PDCI] shall make sure that the Project Archeologist is on-site performing the monitoring duties of this condition. The [DPW, PDCI] shall contact PDS if the Project Archeologist or applicant fails to comply with this condition.

4. The County acknowledges this comment. Although some of the artifacts have already been curated at the San Diego Archaeological Center, the Pala Band of Mission Indians has requested that the artifacts be repatriated only. According to the Native American community, cultural values are specific to the individual group. As such, it cannot be assumed that curation is the culturally sensitive method for the disposition of prehistoric artifacts. Therefore, mitigation in the form of repatriation and curation will be included in the conditions of approval so that if one method of prehistoric artifact disposition is not available, an alternative is provided. The final conditions of approval will be revised to provide both measures discussed in this comment. However, it should be noted that historic artifacts will be required to be curated at a San Diego curation facility and may not be repatriated or curated with a Tribal curation facility. Final Grading Condition CULT#GR-4 on Sheet 4 of the Preliminary Grading Plan has been revised and includes text regarding repatriation and curation as follows:

CULT#GR-45 ARCHAEOLOGICAL MONITORING – FINAL GRADING [PDS, FEE]

INTENT: In order to comply with the adopted ~~Mitigation Monitoring and Reporting Program (MMRP) pursuant to PDS2001-3100-5223, and~~ the County of San Diego *Guidelines for Determining Significance and Report Format and Content Requirements for Archaeological Cultural Resources*, an Archaeological Monitoring Program shall be implemented.

DESCRIPTION OF REQUIREMENT: The Project Archaeologist shall prepare a final report that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program if cultural resources were encountered during earth-disturbing activities. The report shall include the following, if applicable:

- County of San Diego Department of Parks and Recreation Primary and Archaeological Site forms.
- Daily Monitoring Logs

4 cont. c. Evidence that all cultural materials have been curated and/or repatriated as follows:

(1) Evidence that all prehistoric materials collected during the archaeological monitoring program have been submitted to a San Diego curation facility or a culturally affiliated Native American Tribal curation facility that meets federal standards per 36 CFR Part 79, and, therefore, would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records, including title, shall be transferred to the San Diego curation facility or culturally affiliated Native American Tribal curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that the prehistoric archaeological materials have been received and that all fees have been paid.

or

Evidence that all prehistoric materials collected during the grading monitoring program have been repatriated to a Native American group of appropriate tribal affinity. Evidence shall be in the form of a letter from the Native American tribe to whom the cultural resources have been repatriated identifying that the archaeological materials have been received.

(2) Historic materials shall be curated at a San Diego curation facility and shall not be curated at a Tribal curation facility or repatriated. The collections and associated records, including title, shall be transferred to the San Diego curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that the historic materials have been received and that all fees have been paid.

d. If no cultural resources are discovered, a ~~brief letter to that effect~~ Negative Monitoring Report must be submitted stating that the archaeological monitoring activities have been completed. ~~Daily~~ Grading Monitoring Logs must be submitted with the negative monitoring report.

DOCUMENTATION: The applicant's archaeologist shall prepare the final report and submit the report ~~it to the [PDS,PCC] for review and approval.~~ Once approved, a final copy of the report shall be submitted to the South Coastal Information Center (SCIC) and the culturally-affiliated Tribe.

TIMING: Prior to ~~the any occupancy of any structure, final grading release,~~ or use of the premises in reliance of this permit ~~PDS200-3300-030, and prior to Final Grading Release (Grading Ordinance Sec. 87.421.a.3,~~

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4 cont. <http://www.sdcountry.ca.gov/dpw/docsprograderd.pdf>, the final report shall be prepared ~~completed~~.

MONITORING: The {PDS, PCC} shall review the final report for compliance with this condition ~~the project MMRP~~ and the report format guidelines. Upon acceptance of the report, {PDS, PCC} shall inform [PDS, LDR] and [DPW, PDCI], that the requirement is complete and the bond amount can be relinquished. If the monitoring was bonded separately, then {PDS, PCC} shall inform [PDS or DPW FISCAL] to release the bond back to the applicant.