

# ALSTON & BIRD

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January 20, 2026

Planning and Land Use Management Committee  
Los Angeles City Hall  
200 N. Spring St., Room 340  
Los Angeles, CA 90012  
Attn: Candy Rosales – PLUM Legislative Assistant  
Email: [clerk.plumcommittee@lacity.org](mailto:clerk.plumcommittee@lacity.org)

Re: Council File No.: 25-1518 - Appeal of Building and Safety Commission's Approval of Demolition Permit for Barry Building Located at 11973 San Vicente Boulevard

Dear Committee Members:

As land use counsel for the owner of the subject property located at 11973 San Vicente Boulevard (“Subject Property”) and applicant (“Applicant”) for a permit to demolish (the “Demo Permit”) the two-story former commercial building on the Subject Property commonly referred to as the “Barry Building.” I am sending this letter to respond to the letter submitted by the appellant Angelenos for Historic Preservation (“Appellant”) dated January 5 and 8, 2026 (the “New Submittal”) in support of their appeal (“Appeal”) of the Building and Safety Commission’s approval of the Demo Permit. That recent submittal concerns the issue of tribal resources. (We note that the Appellant has never raised this issue before, not in its comments on the EIR prepared by the City of Los Angeles (“City”) for the Demo Permit or in its written and verbal testimony to the Board of Building and Safety Commission.)

## **I. The EIR Analysis of Potential Tribal Resources at the Subject Property**

Before addressing the specific assertion raised in the New Submittal, namely the legal adequacy of the consultation between the City and the one tribe which responded to the City’s consultation notice, we first summarize the analysis provided in the EIR of the potential existence of tribal resources in the subsurface at the Subject Property. In reviewing that analysis, it is important to note the limited subsurface work that will be carried out pursuant to the Demo Permit. That subsurface work will only entail removing the Barry Building and the limited foundation previously built for that two-story building.

Based on a geology report proposed for the Initial Study,<sup>1</sup> that work will be limited to two to five feet below grade. (Initial Study, Appendix C-1, p.56-57.) When addressing the likelihood that such subsurface work would encounter archaeological and paleontological resources, the Initial Study concluded that “As the Project Site would only be excavated to remove the existing utilities (approximately two to five feet underground) and would only disturb soils that have been previously disturbed by past development activities, it is unlikely that paleontological resources would be discovered during demolition.” (Id.)

The same holds true for tribal resources that may be in the subsurface at the Subject Property. As discussed at page IV.G-11 of Section IV-G of the Draft EIR,

“Most or all of the sediments below the modern surfaces at the Project Site have been subject to at least some amount of ground disturbance, which, in most cases, diminishes the likelihood of encountering tribal cultural resources. A geotechnical study conducted by Geocon (included as Appendix C-1 of the Initial Study) indicates that the Project Site is underlain with artificial fill to depths of approximately two feet below the existing ground surface; the artificial fill included evidence of construction debris, including brick and asphalt fragments. According to Geocon, the artificial fill was determined to be the result of previous grading and construction activities within the Project Site, and deeper artificial fill underlying the Project Site may exist. Older alluvial fan deposits were encountered beneath the artificial fill. Because the construction of the existing building and parking lot required excavation within the entirety of the Project Site, the depth and extent of the disturbances reduce the preservation potential for unknown tribal cultural resources within the alluvium.”

Even though the site conditions at the Subject Property are not conducive at all to finding buried tribal resources, the EIR still conducted additional studies to confirm the very low likelihood of tribal resources at the Property. A third party consultant (SCWA) prepared a technical study entitled *Tribal Cultural Resources Assessment*. (A copy of that report is provided at Appendix F-3 of the Draft EIR.) In preparing that technical analysis, “records searches were conducted with the NAHC (Sacred Lands File Search) and the California Historical Resources Information System (CHRIS).” (Draft EIR, p. IV.G-9.) “The CHRIS records search did not identify any known tribal cultural resources within the Project Site or within a 0.5-mile radius, and the NAHC search of the SLF did not identify any traditional lands or sites. In addition, consultation with the Gabrielino Band of Mission Indians – Kizh Nation did not identify any known tribal cultural resources.” (Draft EIR, p. IV.G-10; emphasis added.)

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<sup>1</sup> The Initial Study is provided at Appendix A to the Draft EIR.

Based on this substantial evidence, the EIR correctly concluded that the Demo Permit would not cause any impact to tribal resources because there are none in the soil below the Barry Building which would be disturbed by the work authorized by the Demo Permit.

## **II. The City Engaged In Adequate Tribal Consultation**

Since the Appellant has provided no evidence of tribal resources at the Subject Property, the Appellant instead fashions a process claim in its New Submittal. Citing to an appellate court decision dated March 2025, Appellant claims that the City failed to engage in legally adequate consultation with the one tribe which responded to the City's consultation notice sent to ten tribes in the year 2020. In support of that new argument, Appellant only points to an email dated July 2022 from a City planner (James Harris) to the tribe's representative, and a one-paragraph email dated August 2022 from the tribe to Mr. Harris.

But Appellant leaves out all of the facts concerning the consultation between the City and this tribe that took place in the year 2020. As reported in the tribal resources section of the Draft EIR –

On July 31, 2020, the City received a consultation request pursuant to AB 52 from the Gabrielino Band of Mission Indians – Kizh Nation. None of the other nine tribal contacts that were sent notification requested consultation. The City began the consultation process via phone call on October 7, 2020. The City sent an email to the Gabrielino Band of Mission Indians - Kizh Nation summarizing the call's discussion points. As part of the subsequent consultation, Chairman Salas submitted six maps and general information about the Gabrielino Tribe in Southern California. Chairman Salas also submitted suggested mitigation measures to avoid potential impacts. The measures include retaining a Native American monitor, protocols for unanticipated discovery of tribal cultural resources, human remains, and associated funerary objects, treatment measures, and professional standards. The mitigation measures also included an attachment showing the Kizh Nation tribal territory. As requested by the Gabrielino Band of Mission Indians - Kizh Nation, the City sent additional information regarding the Project's existing soil conditions via email on November 20, 2020, with subsequent correspondence through November 25, 2020.<sup>2</sup> The Gabrielino Band of Mission Indians - Kizh Nation has

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<sup>2</sup> Pursuant to California Government Code Sections 6254 and 6254.10, and Public Resources Code Section 21082.3(c), information submitted by a California Native American tribe during consultation under AB 52 shall not be included in the environmental document or otherwise disclosed to the public by the lead agency, project applicant, or the project applicant's agent, unless

not responded via email or phone call since this email correspondence. On July 6, 2022, the City sent a “Pre-Closure of Consultation” letter to Chairman Salas summarizing the consultation efforts that took place and also sent a link to review the Tribal Cultural Resources Report prepared for the Project (this letter is contained in confidential Appendix D to the Tribal Cultural Resources Report).<sup>10</sup> The City did not receive a response to this letter, and on July 21, 2022, sent a letter officially closing consultation (this letter is also contained in confidential Appendix D to the Tribal Cultural Resources Report).

(Draft EIR, p. IV.G-8.)

That level of consultation with the tribe stands in stark contrast to the inadequate tribal consultation that the lead agency undertook in the recent appellate court decision cited by the appellant, *KOI Nation cf Northern California v. City cf Clearlake*<sup>3</sup> (referred to herein as the “KOI Decision”). The more notable differences between that case and the appeal in the instant case include—

--The KOI case involved a project site that included a large area of undisturbed land that consisted primarily of wooded areas and grassland. In contrast, the Subject Property at which the Barry Building is located involves only disturbed land, including the disturbed five feet of soil below grade surface that would be the extent of the subsurface work that would be carried out pursuant to the Demo Permit.

--Only a mitigated negative declaration was prepared by the lead agency in the KOI case for the proposed project. In contrast, a full Environmental Impact Report was prepared by the City of Los Angeles for the Demo Permit, including an Initial Study that examined 17 different impact areas and an EIR that examined seven potential impact areas in great depth (which were based on dozens of technical reports).

--In the KOI case, the lead agency received the tribe’s proposed mitigation measures at the consultation meeting, “but did not engage in any further discussion with the KOI nation about the requests even after the tribe representatives sent to follow up communications.” (KOI Decision, page 27.) In contrast, the City of Los Angeles sent information to the tribe’s representative after the consultation meeting and also agreed to

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written permission is given. Therefore, the confidential documents are included in confidential Appendix D to the Tribal Cultural Resources Report and are on file with the City Planning Department.

<sup>3</sup> For ease of reference, this response letter will cite to the pages of this decision that was included in the New Submittal, instead of the official court reporter citation (which is 109 Cal. App. 5<sup>th</sup> 815).

impose a condition of approval addressing the potential for an inadvertent discovery of a tribal resource in the subsurface at the Subject Property.<sup>4</sup>

--In the KOI case, the CEQA document (which was a MND) did not inform decision makers or the public of the mitigation measures requested by the tribe or what measures the city decided to implement. (KOI Decision, p. 26.) In contrast, the EIR for the Barry Building and Demo Permit described the consultation process as well as the relevant condition of approval. (Refer to p. IV.G-8 of the Draft EIR.)

--In the KOI case, the tribe never received a letter or statement from the City that consultation was closed. (KOI Decision, p. 27.) In contrast, the City of Los Angeles sent such letters to the tribe dated July 6 and 21, 2022 confirming that consultation had closed based on a lack of response from the tribe to the City's correspondence from November 2020.

--In the KOI case, the MND failed to discuss the city's basis for determining that consultation had concluded. (KOI Decision, p. 26.) In contrast, that information was expressly provided in the tribal resources section of the Draft EIR for the Barry Building (refer to p. IV.G-8).

### **III. Conclusion**

As demonstrated above, neither the law nor the facts support the Appellant's new legal argument concerning tribal resources. And the Appellant's other arguments made in their Appeal are equally untenable. Most of those arguments were previously made in their appeal of LADBS staff's original decision to approve the Demo Permit. Those arguments were addressed in City staff's report to the Board of Building & Safety Commission. The Appellant's letter submitted in response to the Appeal dated July 22, 2025 provided further rebuttal to Appellant's prior claims. (A copy of that response letter

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<sup>4</sup> As stated in the Draft EIR, "while no tribal cultural resources are anticipated to be affected by the Project, the City has established a standard condition of approval to address inadvertent discovery of tribal cultural resources. As required by this standard condition of approval, in the event a potential tribal cultural resource is encountered on the Project Site during ground-disturbing activities, all ground-disturbing activities would be temporarily halted and the City and Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area would be notified. If the City determines that the potential resource appears to be a tribal cultural resource (as defined by PRC Section 21074), the City would provide any affected tribe a reasonable period of time to conduct a site visit and make recommendations regarding the monitoring of future ground disturbance activities, as well as the treatment and disposition of any discovered tribal cultural resources. The Project Applicant would be required to implement the tribe's recommendations if a qualified archaeologist reasonably concludes that the tribe's recommendations are reasonable and feasible. The recommendations would be incorporated into a tribal cultural resource monitoring plan and ground disturbance activities may resume once the plan is approved by the City." (Draft EIR, p. IV.G-12.)

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is attached hereto as Exhibit A.) Finally, the Appellant's new "expert" report concerning the structural deficiencies in the Barry Building is addressed in the Applicant's additional response letter submitted concurrently with this letter.

Therefore, for all these reasons, we urge the City Council to deny the Appeal.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edward J. Casey", with a long, sweeping horizontal stroke extending to the right.

Edward J. Casey

cc: Craig Bullock, Planning Director, Council District 11  
(craig.bullock@lacity.org) - *via email only*  
Jason McCrea, City Planner, Department of City Planning  
(jason.mccrea@lacity.org) – *via email only*