

4.5 CULTURAL RESOURCES

This section provides a discussion of the existing cultural resource environments and an analysis of potential impacts from implementation of the proposed Project. Cultural resources are sites, buildings, structures, objects, and districts over 50 years old that may have traditional or cultural value for the historical significance they possess. This section summarizes information obtained from a records search at the South Central Coastal Information Center (SCCIC) of the California Historical Resources Information System (CHRIS), from the Historical Resources Evaluation Report (HRER) prepared by GPA Consulting (GPA 2018), and from the Recreation and Resources Element of the City of Lake Forest (City) General Plan (2015). The results of the records search and the HRER are contained in Appendix E of this Environmental Impact Report (EIR).

4.5.1 Scoping Process

The City received 28 comment letters during the public review period of the Initial Study/Notice of Preparation (IS/NOP). For copies of the IS/NOP comment letters, refer to Appendix A of this EIR. One comment letter included comments related to Cultural Resources.

The letter from the Native American Heritage Commission (NAHC) (August 8, 2018) recommended that an archaeological records search be conducted through CHRIS and also recommended measures in the event of discovery of human remains.

4.5.2 Existing Environmental Setting

4.5.2.1 Cultural Resources

The area that is now Lake Forest was prehistorically occupied by Native Americans. This area is primarily within the traditional boundaries of the Gabrielino, but is also along the boundary of the territory of the Juaneño. Aliso Creek, which is approximately 0.65 mile (mi) southeast of the proposed Project site, is generally accepted as the boundary of the territory between the two groups, with Gabrielino territory to the northeast and Juaneño territory to the southwest (Kroeber 1925). However, because the proposed Project is located close to the current alignment of Aliso Creek, it is in an area of potential overlap between the two tribal territories.

The Recreation and Resources Element of the City's General Plan identifies the proposed Project site as being sensitive for archaeological resources since it is located in the Aliso Creek and Foothill areas (City of Lake Forest 2015). According to the results of the records search at the SCCIC, no cultural resources have been previously recorded within the proposed Project site. There have been 25 cultural resources previously recorded within 0.5 mi of the proposed Project site, 23 of which are classified as prehistoric.

The proposed Project site currently operates as a nursery and includes a residential building constructed circa 1931 and multiple structures used for nursery operations. However, the buildings on the proposed Project site do not appear to be individually eligible for listing in the National Register of Historic Places (National Register) or the California Register of Historical Resources (California Register) due to lack of significance and integrity (GPA 2018).

4.5.3 Regulatory Setting

4.5.3.1 Federal Regulations

The National Historic Preservation Act of 1966 (NHPA). The NHPA requires that the federal government list significant historic resources on the National Register. Federal agencies must consult the National Register when planning to undertake or grant approval through permits for a project. Prior to the issuance of any license or implementation of any project, the federal agency must consider the effects of a project or license on any historical buildings, sites, structures, or objects that are included on, or eligible for inclusion on, the National Register (16 United States Code [USC] Section 470(f)). This typically includes consultation with the federal agency responsible for the undertaking; the State Historic Preservation Officer (SHPO); local Native American groups and individuals; local and State historical societies and organizations; and relevant archival sources, including the appropriate facility of the CHRIS.

4.5.3.2 State Regulations

California Environmental Quality Act (CEQA) Requirements. CEQA defines a “historical resource” as a resource that meets one or more of the following criteria: (1) listed in, or determined eligible for listing in, the California Register; (2) listed in a local register of historical resources as defined in Public Resources Code (PRC) Section 5020.1(k); (3) identified as significant in a historical resource survey meeting the requirements of PRC Section 5024.1(g); or (4) determined to be a historical resource by a project’s Lead Agency (PRC Section 21084.1 and *State CEQA Guidelines* Section 15064.5(a)). A historical resource consists of:

“Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.... Generally, a resource shall be considered by the lead agency to be ‘historically significant’ if the resource meets the criteria for listing on the California Register of Historical Resources” (*State CEQA Guidelines* Section 15064.5(a)(3)).

In accordance with *State CEQA Guidelines* Section 15064.5(b), a substantial adverse change in the significance of a historical resource is a significant effect on the environment.

CEQA requires a Lead Agency to determine whether an archaeological cultural resource meets the definition of a historical resource, a unique archaeological resource, or neither (*State CEQA Guidelines* Section 15064.5(c)). Prior to considering potential impacts, the Lead Agency must determine whether an archaeological cultural resource meets the definition of a historical resource in *State CEQA Guidelines* Section 15064.5(c)(1). If the archaeological cultural resource meets the definition of a historical resource, it is treated like any other type of historical resource in accordance with *State CEQA Guidelines* Section 15126.4. If the archaeological cultural resource does not meet the definition of a historical resource, then the Lead Agency determines whether it meets the definition of a unique archaeological resource as defined in PRC Section 21083.2(g). In practice, however, most archaeological sites that meet the definition of a unique archaeological resource will also meet the definition of a historical resource. Should the archaeological cultural resource meet

the definition of a unique archaeological resource, it must be treated in accordance with PRC Section 21083.2. If the archaeological cultural resource does not meet the definition of a historical resource or an archaeological resource, the effects to the resource are not considered significant effects on the environment (*State CEQA Guidelines* Section 15064.5(c)(4)).

California Health and Safety Code (HSC) Section 7050.5. California HSC Section 7050.5 states that in the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the Coroner of the county in which the remains are discovered has determined whether or not the remains are subject to the Coroner's authority. If the human remains are of Native American origin, the County of Orange (County) Coroner must notify the NAHC within 24 hours of this identification. The NAHC will identify a Native American Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.

Public Resources Code Section 5097.5. PRC Section 5097.5 provides for the protection of cultural resources and prohibits the removal, destruction, injury, or defacement of archaeological features on any lands under the jurisdiction of State or local authorities.

California Register of Historical Resources (PRC Section 5020 et seq.). State law also protects cultural resources by requiring evaluations of the significance of prehistoric and historic resources in CEQA documents. A cultural resource is an important historical resource if it meets any of the criteria found in *State CEQA Guidelines* Section 15064.5(a). These criteria are nearly identical to those for the National Register, which are listed above.

The SHPO maintains the California Register. Properties listed, or formally designated eligible for listing, on the National Register are nominated to the California Register and then selected to be listed on the California Register, as are State Landmarks and Points of Interest.

The California Register criteria are based on National Register criteria. For a property to be eligible for inclusion in the California Register, one or more of the following criteria must be met:

1. It is associated with the events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States;
2. It is associated with the lives of persons important to local, California, or national history;
3. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, or possesses high artistic values; and/or
4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

In addition to meeting one or more of the above criteria, the California Register requires that sufficient time has passed since a resource's period of significance to "obtain a scholarly perspective on the events or individuals associated with the resource." Fifty years is used as a general estimate

of time needed to develop the perspective to understand the resource's significance (California Code of Regulations [CCR] 4852[d][2]).

The California Register also requires that a resource possess integrity, which is defined as "the authenticity of an historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance" (California Office of Historic Preservation 1999:2). To retain integrity, a resource should have its original location, design, setting, materials, workmanship, feeling, and association. Which of these factors is most important depends on the particular criterion under which the resource is considered eligible for listing (California Office of Historic Preservation 1999).

4.5.3.3 Regional Regulations

There are no regional regulations that are applicable to cultural resources relevant to the proposed Project.

4.5.3.4 Local Regulations

City of Lake Forest General Plan. The existing City of Lake Forest General Plan identifies goals and policies related to cultural resources. Goal 4.0 in the Recreation and Resources Element of the City's General Plan addresses historical and archaeological resources (and potential resources), and indicates that conservation of the resources and investigation of potential resource areas is an important undertaking for connecting with the community's past (City of Lake Forest 2015: 7-8). Two policies address this goal: (1) protection of resources, and (2) identification, designation, and protection of buildings or sites of historical significance (City of Lake Forest 2015: 8).

4.5.4 Methodology

A cultural resources records search was completed on February 28, 2018, at the SCCIC of the CHRIS at California State University, Fullerton. It included a review of all prehistoric and historic archaeological sites within a 0.5 mi radius of the proposed Project, as well as a review of known cultural resource survey and excavation reports in that area. The California State Historic Resources Inventory (HRI), National Register, California Historical Landmarks (SHL), California Points of Historical Interest (SPHI), and various local historical registers were examined.

An HRER was prepared to assess the eligibility of buildings currently occupying the proposed Project site for the National Register and California Register. See Section 1.2 of the HRER (Appendix E of this EIR) for a description of the methodology used to evaluate buildings on the proposed Project site (GPA 2018: 2).

4.5.5 Thresholds of Significance

The thresholds for cultural resources impacts used in this analysis are consistent with Appendix G of the *State CEQA Guidelines* and Form J of the City's *Local Guidelines for Implementing the California Environmental Quality Act* (2017). The proposed Project may be deemed to have a significant impact with respect to cultural resources if it would:

- Threshold 4.5.1: Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?**
- Threshold 4.5.2: Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?**
- Threshold 4.5.3: Disturb any human remains, including those interred outside of formal cemeteries?**

None of the thresholds for cultural resources were scoped out in the Initial Study, which is included in Appendix A. Therefore, all of the thresholds listed above are addressed in the following analysis.

4.5.6 Project Impacts

- Threshold 4.5.1: Would the Project cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?**

No Impact. The SCCIC records search results identified no previously recorded cultural resources on or in soils on the proposed Project site, and the HRER concluded that the existing buildings on the proposed Project site¹ (specifically the single-family residence and detached garage) are not a historical resource and do not appear eligible for listing in the National Register or California Register. As previously discussed, a historical resource as defined in Section 15064.5 of the *State CEQA Guidelines* can include resources listed in a local register. The existing buildings on the Project site (specifically the single-family residence and detached garage) have been recommended as ineligible for designation at a local level. As such, there are no historical resources as defined in Section 15064.5 of the *State CEQA Guidelines* located within the proposed Project site. The proposed Project will not cause a substantial adverse change in the significance of a historical resource, and no mitigation is required.

- Threshold 4.5.2: Would the Project cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?**

Potentially Significant. The SCCIC records search included the proposed Project site and the areas within 0.5 mi of the proposed Project site. No archaeological resources have been previously recorded in the proposed Project site. There have been 25 archaeological resources previously recorded within 0.5 mi of the proposed Project site, 23 of which are classified as prehistoric. Four previous studies have included areas of the Project site. These studies consisted of a pedestrian field survey, a cultural resources assessment, archaeological monitoring, and unspecified archaeological services. However, most of the proposed Project site has not undergone any type of cultural resources study. Due to the number of archaeological resources recorded within 0.5 mi of the proposed Project site and the location of the proposed Project site in the archaeologically sensitive Aliso Creek and Foothill areas (as identified in the City's General Plan), there is potential that ground-disturbing construction activities will impact archaeological resources. Mitigation Measure 4.5.1 requires archaeological monitoring of ground-disturbing work on the proposed Project site. If

¹ The proposed Project site is referred to as "the Property" in the HRER.

archaeological resources are encountered during ground-disturbing work, construction activities in the area of the find will stop and the resource will be evaluated for significance. Pre-established procedures, as approved by the Director of Community Development, will be in place to address any significant finds. When archaeological resources are assessed and/or protected as they are discovered, impacts to these resources would be less than significant. As such, implementation of Mitigation Measure 4.5.1 would reduce the impact of the proposed Project on the significance of archaeological resources to less than significant.

Threshold 4.5.3: Would the Project disturb any human remains, including those interred outside of formal cemeteries?

Potentially Significant. No previously identified human remains are present on the proposed Project site, and there are no facts or evidence indicating that Native Americans or people of European descent are buried on the proposed Project site. However, undiscovered human remains may be present below the ground surface on any property. Disturbing human remains could violate the State's Health and Safety Code as well as destroy the resource. Mitigation Measure 4.5.1 requires compliance with the State's Health and Safety Code for the treatment of human remains. Implementation of Mitigation Measure 4.5.1 would reduce the impact of the proposed Project on human remains to less than significant.

4.5.7 Cumulative Impacts

Potential impacts of the proposed Project to unknown cultural I resources, when combined with the impacts of past, present, and reasonably foreseeable projects in the City of Lake Forest, could contribute to a cumulatively significant impact due to the overall loss of historical and archaeological artifacts unique to the region. As discussed above, the proposed Project will not have an impact on historical resources.

Other portions of Lake Forest are identified as sensitive for archaeological resources by the Recreation and Resources Element of the City's General Plan. However, each development proposal received by the City is required to comply with the requirements of CEQA, including an environmental review if applicable. If there were any potential for significant impacts to archaeological resources as a result of present or reasonably foreseeable projects in Lake Forest, an investigation would be required to determine the nature and extent of the resources and identify appropriate mitigation measures. When archaeological resources are assessed and/or protected as they are discovered, impacts to these resources are less than significant.

As such, implementation of Mitigation Measure 4.5.1 would ensure that the proposed Project, together with cumulative projects, would not result in a significant cumulative impact to unique archaeological and historical resources.

4.5.8 Level of Significance Prior to Mitigation

No impacts to historical resources would occur. Prior to mitigation, the proposed Project has the potential to result in significant impacts to archaeological resources and previously undiscovered buried human remains.

4.5.9 Mitigation Measures

Mitigation Measure 4.5.1

Archaeological Resources, Tribal Cultural Resources, and Human Remains. Prior to issuance of a grading permit for any site within the Project area, a qualified archaeologist shall be retained by the Applicant for that grading permit to provide professional archaeological services. The archaeologist shall be present at the pre-grading conference to establish procedures for archaeological resource surveillance. Those procedures shall include provisions for temporarily halting or redirecting work to permit sampling, identification, and evaluation of resources deemed by the archaeologist to potentially be historical resources or unique archaeological resources under the California Environmental Quality Act (CEQA). The archaeologist also shall conduct on-site archaeological monitoring for the grading operation. Should historical resources or unique archaeological resources be discovered during the grading operation, grading activities shall be modified to allow expeditious and proper analysis and/or salvage of the resources. Disposition of the resources shall be within the discretion of the City of Lake Forest.

Prior to Approval of Grading or Improvement plans, the Applicant shall implement a grading monitoring plan to mitigate potential impacts to undiscovered buried archaeological resources on the Nakase Nursery/Toll Brothers Project to the satisfaction of the City of Lake Forest. This program shall include, but shall not be limited to, the following actions:

1. Provide evidence to the Lead Agency that a qualified archaeologist and Native American monitor have been contracted to implement a grading monitoring program to the satisfaction of the City of Lake Forest. A letter from the Project Archaeologist shall be submitted to the City of Lake Forest Director of Community Development. A letter from the Native American Monitor shall also be submitted to the City of Lake Forest Director of Community Development. The letter shall include the following guidelines:
 - a. The qualified archaeologist/historian and Native American monitor shall attend the pre-grading meeting with the contractors to explain and coordinate the requirements of the monitoring program.
 - b. The consulting archaeologist and Native American monitor shall monitor all areas identified for development.

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- c. An adequate number of monitors (archaeological/historical/Native American) shall be present to ensure that all earth-moving activities are observed and shall be on site during all grading activities.
 - d. During the original cutting (used in this mitigation to refer to the “cut” part of “cut and fill”) of previously undisturbed deposits, the archaeological monitor(s) and Native American monitor(s) shall be on site full time. 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 shall be determined by the Principal Investigator.
 - e. During the cutting of previously disturbed deposits, the archaeological monitor(s) and Native American monitor(s) shall be on site as determined by the Principal Investigator of the excavations. 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 shall be determined by the Principal Investigator in consultation with the Native American monitor.
 - f. Isolates and clearly non-significant deposits shall be minimally documented in the field, and the monitored grading can then proceed.
 - g. In the event that previously unidentified, potentially significant cultural resources (including tribal cultural resources) are discovered, the archaeologist, in consultation with the Native American monitor(s), shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow for evaluation. The archaeologist shall contact the City of Lake Forest Director of Community Development at the time of discovery. After consultation with the property owner, archaeologist, and Native American monitor(s), disposition of the resources shall be within the discretion of the City of Lake Forest. For significant cultural resources, a Research Design and Data Recovery Program to mitigate impacts shall be prepared by the archaeologist, in consultation with the Native American monitor(s), then carried out using professional archaeological and culturally sensitive methods.

- h. If any human bones are discovered, the Principal Investigator shall contact the County Coroner. In the event the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the Native American Heritage Commission, shall be contacted in order to determine proper treatment and disposition of the remains.
 - i. Before construction activities are allowed to resume in the affected area, the artifacts shall be recovered and features recorded using professional archaeological methods. The Principal Investigator shall determine the amount of material to be recovered for an adequate artifact sample for analysis.
 - j. In the event that previously unidentified non-tribal cultural resources are discovered, those resources shall be processed and curated at a facility that meets federal standards per 36 CFR Part 79, and therefore shall be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records shall be transferred, including title, to the John D. Cooper Archaeological and Paleontological Curation Center, to be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility identifying that the archaeological materials have been received and that all fees have been paid.
 - k. In the event that previously unidentified cultural resources are discovered, a report documenting the field and analysis results and interpreting the artifact and research data within the research context shall be completed and submitted to the satisfaction of the City of Lake Forest prior to the issuance of any building permits. The report shall include California Department of Parks and Recreation Primary and Archaeological Site Forms.
 - l. In the event that no cultural resources are discovered, a brief letter to that effect shall be sent to the City of Lake Forest by the consulting archaeologist that the grading monitoring activities have been completed.
2. Provide evidence to the City of Lake Forest that the following notes have been placed on the Grading Plan:

- a. The qualified archaeologist/historian and Native American monitor shall attend the pre-construction meeting with the contractors to explain and coordinate the requirements of the monitoring program.
- b. During the original cutting of previously undisturbed deposits, the archaeological monitor(s) and Native American monitor(s) shall be on site to perform full-time monitoring as determined by the Principal Investigator of the excavations. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and the presence and abundance of artifacts and features.
- c. During the cutting of previously disturbed deposits, the archaeological monitor(s) and Native American monitor(s) shall be on site as determined by the Principal Investigator of the excavations. 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 shall be determined by the Principal Investigator in consultation with the Native American monitor.
- d. In the event that previously unidentified, potentially significant cultural resources (including tribal cultural resources) are discovered, the archaeologist, in consultation with the Native American monitor(s), shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow for evaluation. The archaeologist shall contact the City of Lake Forest Director of Community Development at the time of discovery. After consultation with the property owner, archaeologist, and Native American monitor(s), disposition of the resources shall be within the discretion of the City of Lake Forest. For significant cultural resources, a Research Design and Data Recovery Program to mitigate impacts shall be prepared by the archaeologist, in consultation with the Native American monitor(s), then carried out using professional archaeological and culturally sensitive methods.
- e. The consulting archaeologist shall monitor all areas identified for development.

- f. If any human bones are discovered, the Principal Investigator shall contact the County Coroner. In the event the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the Native American Heritage Commission, shall be contacted in order to determine proper treatment and disposition of the remains.
- g. Prior to rough grading inspection sign-off, provide evidence that the field grading monitoring activities have been completed to the satisfaction of the City of Lake Forest. Evidence shall be in the form of a letter from the Project Archaeologist.
- h. Prior to final grading release, submit to the satisfaction of the City of Lake Forest a final report that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program. The report shall also include the following:
 - 1) Department of Parks and Recreation Primary and Archaeological Site Forms.
 - 2) Evidence that all non-tribal cultural materials collected during the grading monitoring program have been curated, and therefore shall be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records shall be transferred, including title, to the John D. Cooper Archaeological and Paleontological Curation Center, to be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility identifying that the materials have been received and that all fees have been paid.
- 3. In the event that no cultural resources are discovered, a brief letter to that effect shall be sent to the City of Lake Forest by the consulting archaeologist that the grading monitoring activities have been completed.
- 4. The qualified archaeologist retained shall prepare monthly progress reports to be filed with the site developer(s) and the City of Lake Forest.

5. Artifacts recovered shall be prepared, identified, and cataloged before donation to the Gabrieleno Band of Mission Indians – Kizh Nation. If the Tribe does not want custody, an accredited repository designated by the City of Lake Forest shall be utilized. Any artifacts determined to be insignificant shall be offered to local schools for use in educational programs.
6. The qualified archaeologist retained shall prepare a final report to be filed with the site developer(s) and the City of Lake Forest. The report shall include a list of specimens recovered, documentation of each locality, and interpretation of artifacts recovered, and shall include all specialists' reports as appendices.

4.5.10 Level of Significance after Mitigation

No impacts to historical resources would occur. Mitigation Measure 4.5.1 would reduce potential impacts to archaeological resources and previously undiscovered buried human remains to a less than significant level. No significant unavoidable impacts to archaeological resources or human remains would occur with implementation of these measures.