

4.4 CULTURAL RESOURCES

An Initial Study was prepared for the Revised Project (see Appendix A of this Draft Supplemental EIR). Based on the analysis contained in the Initial Study, it was determined the Revised Project would result in significant impacts to potential undiscovered archeological and paleontological resources and human remains. These impacts would be mitigated to less-than-significant levels with the implementation of mitigation measures in the Certified EIR. This section therefore focuses on historical resources. This section describes the regulatory framework and existing conditions in the Project area related to historical resources, and the potential impacts of the Revised Project on historical resources.

The section was developed through background research, field surveys of the Revised Project site, and through a historical building evaluations conducted by Knapp Architects, on January 13, 2012 (for the 3233 Deer Hill Road property) and August 29, 2014 (for the 3312 Deer Hill Road property, or “dog park site”), included as Appendix I of this Draft Supplemental EIR.

Cultural resources are sites, buildings, structures, objects, and districts that may have traditional or cultural value for their historical significance. Cultural resources include a broad range of resources, examples of which include archaeological sites, historic roadways and railroad tracks, and buildings of architectural significance. Generally, for a cultural resource to be considered a historical resource (i.e. meets the criteria at Public Resource Code Section 21084.1), it must be 50 years or older.¹

4.4.1 ENVIRONMENTAL SETTING

4.4.1.1 REGULATORY FRAMEWORK

There are several federal, State, and local laws and regulations applicable to historically and architecturally significant resources, as well as to archaeological and paleontological resources in the Revised Project area. The key regulations are discussed briefly below.

Federal Laws and Regulations

There are no federal laws or regulations related to cultural resources that are relevant to the Revised Project site.

¹ California Office of Historic Preservation, 1999. *California Register and National Register: A Comparison*. Technical Assistance Series No. 6, page 3. California Office of Historic Preservation, Sacramento.

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State Regulations

California Register of Historic Resources (California Register)

California Code of Regulations Title 14, Chapter 11.5, Section 4850 creates the California Register. The California Register establishes a list of properties to be protected from substantial adverse change (Public Resources Code Section 5024.1). The State Office of Historic Preservation (OHP) has determined that buildings, structures and objects 45 years or older may be of historical value. A historical resource may be listed in the California Register if it meets any of the following criteria.

- It is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
- It is associated with the lives of persons important in California's past.
- It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic value.
- It has yielded or is likely to yield information important in prehistory or history.

The California Register includes properties that are listed or have been formally determined eligible for listing in the National Register, State Historical Landmarks, and eligible Points of Historical Interest. Other resources that may be eligible for the California Register, and which require nomination and approval for listing by the State Historic Resources Commission, include resources contributing to the significance of a local historic district, individual historical resources, historical resources identified in historic surveys conducted in accordance with OHP procedures, historic resources or districts designated under a local ordinance consistent with the procedures of the State Historic Resources Commission, and local landmarks or historic properties designated under local ordinance.

California Historical Building Code, California Code of Regulations, Title 24, Part 8

The California Historical Building Code, defined in Sections 18950 to 18961 of Division 13, Part 2.7 of Health and Safety Code, provides regulations and standards for the rehabilitation, preservation, restoration (including related reconstruction) or relocation of historical buildings, structures, and properties deemed by any level of government as having importance to the history, architecture, or culture of an area.

California Environmental Quality Act (CEQA)

Section 15064.5 of the State CEQA Guidelines states that a project may have a significant impact on the environment if it causes a substantial adverse change in the significance of a historical resource. The State CEQA Guidelines define four ways that a property can qualify as a significant historical resource for purposes of CEQA compliance:

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- The resource is listed in or determined eligible for listing in the California Register of Historical Resources, as determined by the State Historical Resources Commission.
- The resource is included in a local register of historical resources, as defined in Section 5020.1(k) of the Public Resources Code, or identified as significant in a historical resource survey meeting the requirements of Section 5024.1(g) of the Public Resources Code, unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- The lead agency determines the resource to be significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California, as supported by substantial evidence in light of the whole record.
- The lead agency determines that the resource may be a historical resource as defined in Public Resources Code Sections 5020.1(j) or 5024.1 (CEQA Guidelines Section 15064.5) which means, in part, that it may be eligible for the California Register.

In addition, Public Resources Code CEQA Statute Section 21083.2 and State CEQA Guidelines Section 15126.4 specify lead agency responsibilities to determine whether a project may have a significant effect on archaeological resources. If it can be demonstrated that a project will damage a unique archaeological resource, the lead agency may require reasonable efforts for the resources to be preserved in place or left in an undisturbed state. Preservation in place is the preferred approach to mitigation. The Public Resources Code also details required mitigation if unique archaeological resources are not preserved in place.

Section 15064.5 of the State CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These codes protect such remains from disturbance, vandalism, and inadvertent destruction; establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project; and establish the Native American Heritage Commission (NAHC) as the authority to identify the most likely descendant and mediate any disputes regarding disposition of such remains.

Local Regulations

Lafayette General Plan

Lafayette General Plan goals and policies relevant to cultural resources are contained in Table 4.4-1.

Lafayette Municipal Code

Chapter 6-21, Historical Landmarks, of the Lafayette Municipal Code sets forth procedures and regulations regarding the treatment of places, sites, buildings, structures, works of art, and other objects with historical or archaeological value. Article 2 of Chapter 6-21 contains criteria and procedures for the designation of landmarks. Article 3 of Chapter 6-21 contains regulations for changes to landmarks. Under Article 3, any person making changes to landmark properties must apply for and obtain a certificate from the City

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TABLE 4.4-1 GENERAL PLAN GOALS AND POLICIES RELEVANT TO CULTURAL RESOURCES

Goal/Policy Number	Goal/Policy Content
Goal LU-22	Preserve archaeological and historic resources.
Policy LU-22.1	Preserve Archaeological Resources: Protect archaeological resources.
Policy LU-22.2	Identify, recognize, and protect sites, buildings, structures, and districts with significant cultural, aesthetic, and social characteristics which are part of Lafayette's heritage.

Source: Lafayette General Plan, 2002, <http://www.ci.lafayette.ca.us>, accessed on October 11, 2011.

Council. Under Section 6-2133 of the Municipal Code, the Lafayette Historical Society is responsible for reviewing applications within 30 days and making a recommendation to the City Council regarding whether the application should be approved, conditionally approved, or denied.

4.4.1.2 EXISTING CONDITIONS

This section describes the cultural setting for the Revised Project site and its vicinity. The existing conditions were identified from a literature review, a records search, and field surveys as noted above.

History

The Costanoan or Ohlone Native Americans were the first known inhabitants of the Lafayette area. With a warm climate, plentiful water, and wild plants, acorns, game, and fish, the Costanoan group lived in a village called Ahala-n.² Areas along the creeks were settled, as evidenced by the prehistoric archaeological sites that have been identified along Lafayette's creeks, on terraces adjacent to watercourses, and on ridge tops.

The first European settlers in the Lafayette area were Franciscan priests who came from Spain and established missions. The first settlements in Lafayette were built in 1848.³ In the latter half of the nineteenth century, development occurred along Lafayette's two pioneer roads, now Mount Diablo Boulevard and Moraga Road. Progressing into the twentieth century, new forms of transportation brought more people into Lafayette, creating a need for larger schools and other amenities. Throughout the rest of the twentieth century more stores and markets opened. Further population expansion occurred in the 1950s and 1960s, during which Lafayette grew from 7,000 to 20,000 residents.⁴ Like many parts of the country, Lafayette experienced a suburban boom as existing agricultural fields were replaced with housing developments. With this growth, the City was formally incorporated in 1968.⁵ As the City grew and

² Lafayette Historical Society, Lafayette: A Pictorial History, Indian Country, <http://www.lafayettehistory.org/pict02IndN.html>, accessed on May 29, 2014.

³ City of Lafayette, 2002. *Lafayette General Plan*, page I-33.

⁴ City of Lafayette, 2009. *Revised Draft Downtown Lafayette Specific Plan*, page 12.

⁵ Guide to Historic Lafayette, <http://www.lafayettehistory.org/tourN.html>, accessed on May 29, 2014.

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roadways were added, the shape of the City and subsequently, the Project area changed. As shown on Figure 4.4-1, the original topography of the site was altered due to grading for Deer Hill Road and State Highway 24. Deer Hill Road was constructed sometime between 1965 and 1968, and on- and off-ramps for State Highway 24 were also improved during this period.

The house at 3312 Deer Hill Road was probably built for one of the adult sons of George Joseph and Dorothy Helen “Dot” (Randall) Gelhaus.

The review of historic records indicates the Project site operated as a quarry between 1967 and 1970. It is likely the quarry was used as a source of borrow material for the local road and highway improvements.⁶ More recently, a part of the northeast portion of the site has served as a Christmas tree lot since 1997.⁷

In 1967, Tony Lagiss applied for a temporary quarry permit to provide gravel from the hillside east of the dog park site to provide a gravel base for road construction. Quarrying had occurred at this location on a number of occasions in the past. Opposed by nearby residents who objected to the dust, truck traffic, and scarification of the landscape the quarrying would cause, the quarrying did not occur because of delays in obtaining its approval.

Lagiss purchased the dog park site in his daughter’s name during the 1980s from Asian investors.

Historical Resources

The State of California Register of Historical Resources lists buildings, structures, and sites as places of historic interest. The City of Lafayette officially designates properties as City Historic Landmarks. Additionally, the *Guide to Historical Lafayette* also identifies properties of significance to the community, of which none are on or adjacent to the Revised Project site.⁸

3233 Deer Hill Road

A review of historical records indicates the Project site was undeveloped land since as early as 1939 and the main residence on the Project site was constructed in 1941. All the buildings were moved onto this site from other parcels over a period of time, beginning in 1955 and ending in 1974. A garage and a small office were constructed sometime between 1946 and 1958, and another small office was constructed sometime between 1965 and 1974. The on-site buildings are not listed in any City of Lafayette register. According to the Northwest Information Center at Sonoma State University (part of the statewide California Historical Resources Information System (CHRIS) the on-site buildings are not listed in any State or federal register.

⁶ Phase I and Phase II Environmental Site Assessment prepared by ENGEO, Incorporated on June 21, 2011 (see Appendix K of the Certified EIR).

⁷ The Honey Bears Trees Christmas tree lot plan was received by the City of Lafayette on August 25, 2011 and subsequently approved for operations the 2011 holiday season.

⁸ *City of Lafayette 2002 General Plan*, Land Use Chapter, page I-33.

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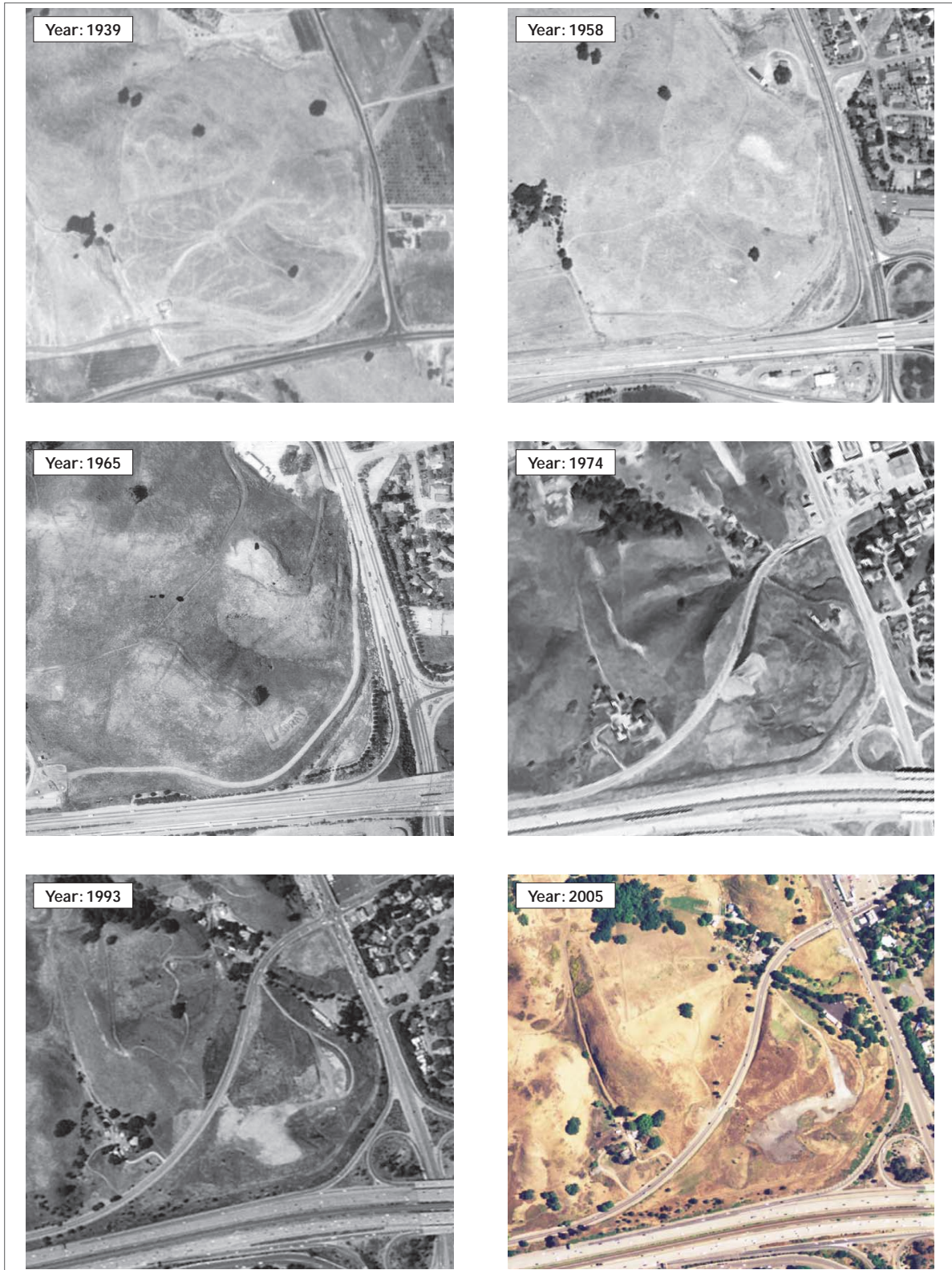


Figure 4.4-1
Historic Photographs of 3233 Deer Hill Road



Main house, looking northeast, 1948-1951.
Contra Costa County Assessor.



Main house, looking east-southeast.



House (right) and garage (left) from driveway, looking north.



Garage, looking south.
Portion of house is visible at left.



Outbuildings, from left: Shed, looking north; other shed, looking west; interior of livestock shed.

Source: Knapp Architects, 2014.

Figure 4.4-2
Existing Buildings at 3312 Deer Hill Road

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3312 Deer Hill Road

Existing buildings on the dog park site have been evaluated for their potential historical significance and are shown in Figure 4.4-2. According to the County Assessor's Residential Building Record, the main house on the dog park site was built in 1948, followed by the garage in 1951. Outbuildings were built between 1951 and 1964. Two storage sheds were built in 1950, including: a 19 foot by 20 foot composition shingle-clad gable-roofed storage shed with plywood-clad walls and a dirt floor; and a shed-roofed storage building composed of 9 foot by 8 foot and 16 foot by 24 foot sections, with wood sheathing and a tongue-and-groove wood floor. One of these sheds has since been demolished. A corrugated steel-clad storage shed followed in 1962, and a livestock shed followed in 1964. The existing driveway replaced an original access road in 1984.

The buildings on the dog park site are not listed in any City of Lafayette register. According to the Northwest Information Center at Sonoma State University (part of the Statewide CHRIS information system), they are not listed in any State or federal register.

4.4.2 CHANGES IN THE REVISED PROJECT RELATED TO CULTURAL RESOURCES

The Revised Project proposes a dog park on a 3-acre site at 3312 Deer Hill Road that was not evaluated in the Certified EIR. Creation of the dog park would involve the demolition of an existing single-family house and associated structures on the dog park site.

4.4.3 STANDARDS OF SIGNIFICANCE

The Revised Project would result in a significant cultural resources impact if it would:

1. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5.

An Initial Study was prepared for the proposed Project (see Appendix A of this Draft Supplemental EIR). Based on the analysis contained in the Initial Study, it was determined the Revised Project would result in potential significant impacts for the following significance criteria. These impacts would be mitigated to less-than-significant levels with the implementation of mitigation measures in the Certified EIR. These mitigation measures are listed in Section 4.4.6 below, and in Table 1-1 of this Supplemental EIR. The criteria are, therefore, not discussed in this chapter:

- Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.

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- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.
- Disturb any human remains, including those interred outside of formal cemeteries.

4.4.4 IMPACT DISCUSSION

This section analyzes potential impacts to cultural resources.

CULT-1 The Revised Project would not cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5.

As described in Section 4.2.1.2, no built environment historical resources were identified in the Revised Project site.

The on-site buildings on the 3233 Deer Hill property were originally constructed elsewhere in Lafayette at least 50 years ago and moved to the Project site by the property owner. Each of the buildings exhibits materials, and in some cases designs, associated with the period in which they were built. None of the buildings meets California Register Criteria. Accordingly, the subject buildings are not eligible to the California Register individually or as a group. Therefore, the on-site buildings are not historical resources for the purposes of CEQA and alteration, moving, or demolition of the on-site buildings would not cause a significant impact under CEQA.

The buildings on the dog park site are not listed in any City of Lafayette register, and they are not listed in any State or federal register. While the buildings are more than 50 years old, none of them exhibits unusual construction techniques or high artistic values as required for eligibility by the California Register. The main house is typical of modest California houses of the mid-20th Century, but is not a rare prototype exhibiting a pure combination of traits which characterize its era. The garage and outbuildings are not unusual in their design, materials, or construction techniques. The siting of the buildings and their apparent function is not a noteworthy example of residential or agricultural development.

None of the individual buildings on the dog park site, nor the group, are associated with events significant to local, State, or national history. Under the California Register Criteria, a collection of buildings which do not qualify individually can be eligible as a group if they meet one of the Criteria collectively. In the case of the buildings on the dog park site, there is no added significance that the group possesses beyond what any one building in the group has. Although their current condition results in varying degrees from developments which are significant (e.g. agricultural history, development of the City of Lafayette, development of freeways and Bart), none of them has an important association with any of these, nor does any of them convey an understanding of the significant event itself. Research conducted for this Supplemental EIR does not indicate that any person with a significant association with the dog park site was important to local, State, or national history.

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Because none of the buildings on the Revised Project site are considered to be historical resources, the impact associated with demolition of the existing buildings on the Revised Project site would be *less than significant*.

Significance before Mitigation: Less than significant.

4.4.5 CUMULATIVE IMPACTS

CULT-2 **Implementation of the Revised Project, in combination with past, present, and reasonably foreseeable projects, would not result in cumulative impacts with respect to cultural resources.**

The Certified EIR found that cumulative cultural resource impacts would be less than significant. Impacts to cultural resources tend to be site-specific and are assessed on a site-by-site basis. The Revised Project would not result in any new cultural resource impacts that could affect the cumulative setting, and does not include any new cumulatively considerable components. Therefore, the cumulative impact would be *less than significant*.

Significance Before Mitigation: Less than significant.

4.4.6 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

The Revised Project would not result in any new significant project-specific or cumulative impacts to cultural resources and therefore no new mitigation measures are required. However, an Initial Study was prepared for the proposed Project (see Appendix A of this Draft Supplemental EIR) that determined the Revised Project would result in the following potential significant impacts. These impacts would be mitigated to less-than-significant levels with the implementation of the following mitigation measures included in the Certified EIR.

CULT-1: **Increased use of the Revised Project site and Project ground-disturbing activities could have significant impacts on prehistoric archaeological deposits that qualify as “historical resources” under CEQA.**

Mitigation Measure CULT-1: In the event that archaeological materials are discovered during Project construction activities, the applicant shall inform its contractor(s) of the archaeological sensitivity of the Project site by including the following italicized measures in contract documents. The City shall verify that the following language is included in the appropriate contract documents:

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If prehistoric or historical archaeological deposits are discovered during Project activities, all work within 25 feet of the discovery must stop and the City shall be notified. A qualified archeologist shall inspect the findings within 24 hours of discovery, consult with agencies as appropriate, and make recommendations regarding the treatment of the discovery. Project personnel should not collect or move any archaeological materials or human remains and associated materials. Archaeological resources can include flaked-stone tools (e.g. projectile points, knives, choppers) or obsidian, chert, basalt, or quartzite toolmaking debris; bone tools; culturally darkened soil (i.e. midden soil often containing heat-affected rock, ash and charcoal, shellfish remains, faunal bones, and cultural materials); and stone-milling equipment (e.g. mortars, pestles, hanstones). Prehistoric archaeological sites often contain human remains. Historical materials can include wood, stone, concrete, or adobe footings, walls, and other structural remains; debris-filled wells or privies; and deposits of wood, glass, ceramics, metal, and other refuse. Cultural resources shall be recorded on California Department of Parks and Recreation (DPR) Form 523 (Historic Resource Recordation form). If it is determined that the proposed Project could damage unique archaeological resources, mitigation shall be implemented in accordance with Public Resources Code Section 21083.2 and Section 15126.4 of the CEQA Guidelines. Possible mitigation under Public Resources Code Section 21083.2 requires that reasonable efforts be made for resources to be preserved in place or left undisturbed. If preservation in place is not feasible, the Project applicant shall pay in lieu fees to mitigate significant effects. Excavation as mitigation shall be limited to those parts of resources that would be damaged or destroyed by the Project. Possible mitigation under CEQA emphasizes preservation in place measures, including planning construction avoid archaeological sites, incorporating sites into parks and other open spaces, covering sites with stable soil, and deeding the site into a permanent conservation easement.

Significance after Mitigation: Less than significant.

CULT-2: **Pleistocene sediments underlie a portion of the Project site and have the potential to contain paleontological resources. Should Project ground-disturbing activities encounter such resources, a substantial adverse change in their significance (e.g. their disturbance or destruction) would constitute a significant impact under CEQA.**

Mitigation Measure CULT-2: In the event that fossils are discovered during Project activities, the applicant shall inform its contractor(s) of the paleontological sensitivity of the Project site by including the following italicized language in contract documents. The City shall verify that the following language is included in the appropriate contract documents:

The subsurface at the construction site may be sensitive for paleontological resources. If paleontological resources are encountered during project subsurface construction, all ground-disturbing activities within 25 feet must stop and the City shall be notified. A qualified paleontologist shall inspect the findings within 24 hours of discovery, consult with agencies as appropriate, and make recommendations regarding the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Paleontological resources include fossil plants and animals, and such trace fossil evidence of past life as tracks. Ancient marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish,

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whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Paleontological resources also include plant imprints, petrified wood, and animal tracks. If it is determined that the proposed Project could damage unique paleontological resources, mitigation shall be implemented in accordance with Public Resources Code Section 21083.2 and Section 15126.4 of the CEQA Guidelines. Possible mitigation under Public Resources Code Section 21083.2 requires that reasonable efforts be made for resources to be preserved in place or left undisturbed. If preservation in place is not feasible, the Project applicant shall pay in lieu fees to mitigate significant effects. Excavation as mitigation shall be limited to those parts of resources that would be damaged or destroyed by the Project. Possible mitigation under CEQA emphasizes preservation in place measures, including planning construction avoid archaeological sites, incorporating sites into parks and other open spaces, covering sites with stable soil, and deeding the site into a permanent conservation easement.

Significance after Mitigation: Less than significant.

CULT-3: Should Project ground-disturbing activities encounter human remains the disturbance of those remains could result in a significant impact under CEQA.

Mitigation Measure CULT-3: Procedures of conduct following the discovery of human remains have been mandated by Health and Safety Code Section 7050.5, Public Resources Code Section 5097.98 and the California Code of Regulations Section 15064.5(e) (CEQA). According to the provisions in CEQA, if human remains are encountered at the site, all work in the immediate vicinity of the discovery shall cease and necessary steps to ensure the integrity of the immediate area shall be taken. The Contra Costa County Coroner shall be notified immediately. The Coroner shall then determine whether the remains are Native American. If the Coroner determines the remains are Native American, the Coroner shall notify the NAHC within 24 hours, who will, in turn, notify the person the NAHC identifies as the most likely descendent (MLD) of any human remains. Further actions shall be determined, in part, by the desires of the MLD. The MLD has 48 hours to make recommendations regarding the disposition of the remains following notification from the NAHC of the discovery. If the MLD does not make recommendations within 48 hours, the owner shall, with appropriate dignity, re-intern the remains in an area of the property secure from further disturbance. Alternatively, if the owner does not accept the MLD's recommendations, the owner or the descendent may request mediation by the NAHC.

Significance after Mitigation: Less than significant.