

4.4 CULTURAL RESOURCES

This section evaluates the potential for the Ganahl Lumber Project to impact cultural resources. 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. The information and analysis presented in this section are based on the City of San Juan Capistrano (City) General Plan Cultural Resources Element (1999) and the *Cultural Resources Survey for the Ganahl Lumber Project* (ECORP Consulting, January 2019). The complete study is contained in Appendix D.

The term “site” is used in two contexts in this section:

- “Project site” should be interpreted to mean the approximately 17-acre site proposed for development.
- “Cultural resources site” should be interpreted to mean the specific locations of documented cultural materials or artifacts.

4.4.1 Scoping Process

The City of San Juan Capistrano (City) received 11 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 Environmental Impact Report (EIR). No comment letters included comments related to Cultural Resources. Please refer to the Tribal Cultural Resources discussion (Section 4.13 of this Draft EIR) for information on tribal resources and consultation.

4.4.2 Methodology

A cultural resources survey was conducted for the proposed project on the subject property, and was documented in the Cultural Resources Survey Report for the Ganahl Lumber Project (ECORP Consulting 2019). The survey report describes a record search conducted for the project. The cultural resources records search was conducted on September 26, 2017, at the South Central Coastal Archaeological Information Center (SCCIC), located at California State University, Fullerton. The purpose of the records search was to determine the extent of previous cultural resources investigations within a 0.5-mile (800-meter) radius of the project area, and whether any previously recorded archaeological sites or other historic resources exist within or near the project area. Materials reviewed included reports of previous cultural resources investigations, archaeological site records, historical maps, and listings of resources on the National Register of Historic Places (National Register), California Register of Historical Resources (California Register), California Points of Historical Interest, California Landmarks, and National Historic Landmarks. Further, a search of the Sacred Lands File was conducted by the Native American Heritage Commission (NAHC) in Sacramento, California. The search was requested to determine whether there are sensitive or sacred Native American resources in the vicinity of the project area that could be affected by the proposed project.

Subsequent to the record search, a cultural resources survey of the project area was completed by a qualified archaeologist on September 29, 2017. Much of the property has large raised pads covered with gravel where cars from the nearby auto dealers are stored. These car storage areas were not

surveyed because gravel obscures the visibility of native soil. The remainder of the property was surveyed using pedestrian transects. Most of the property was surveyed by walking transects 5 meters apart. Where surface visibility was very low (less than 15 percent), and transects spaced 10 meters apart were walked. All open patches of ground were examined. Embankments where weathering might have uncovered artifacts were also examined.

4.4.2.1 Results

The records search indicated 49 cultural resources investigations have been conducted within the 0.5-mile records search radius between 1978 and 2012. In addition, there is a list of “Native American Campsites” by John Romero from 1935. Approximately 75 percent of the area in the records search radius has been previously surveyed. One small area survey (OR-1506) extends into the southern part of the project area. The rest of the project area has not been previously surveyed. The records search results indicated that no previously recorded cultural resources have been recorded within the project area and 14 resources have been recorded within 0.5-mile of the project area. Further, the NAHC reports that a search of the Sacred Lands File failed to indicate the presence of Native American traditional sites or places in or near the project area.

No cultural material, other than recent trash and debris, was identified in the survey area during the cultural resources survey.

4.4.3 Existing Environmental Setting

In the existing setting, the project site is undeveloped. The project area is on a stream terrace on the east side of the channelized San Juan Creek about one mile from its mouth at the Pacific Ocean. There is a hill adjacent to the east with an elevation of over 100 feet. The southern two-thirds of the project area contains large raised gravel-covered pads used for car storage. The northern third remains undeveloped with grasses and other ruderal vegetation. Before construction of the pads, elevation ranged from 25 to 37 feet.

4.4.4 Regulatory Setting

4.4.4.1 Federal Regulations

There are no federal regulations that are applicable to cultural resources relevant to the proposed project.

4.4.4.2 State Regulations

California Environmental Quality Act 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 *State CEQA Guidelines* 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 *State CEQA Guidelines* 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)).

CEQA also requires that a determination be made as to whether a project would directly or indirectly destroy a unique paleontological resource or site or unique geological feature (*State CEQA Guidelines* Appendix G (v)(c)). If an impact is significant, CEQA requires feasible measures to minimize the impact (California Code of Regulations [CCR] Title 14(3) Section 15126.4 (a)(1)).

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

California Health and Safety Code Section 7050.5. California Health and Safety Code (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 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.

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 Section 15064.5(a) of the *State CEQA Guidelines*. These criteria are nearly identical to those for the National Register.

The State Historic Preservation Officer (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.

4.4.4.3 Regional Regulations

There are no regional or county regulations applicable to cultural resources relevant to the proposed project.

4.4.4.4 Local Regulations

City of San Juan Capistrano General Plan. The City's Cultural Resources Element (1999) addresses the protection and sustainability of the City's historic and cultural resources. Goals and policies presented within the Cultural Resources Element are intended to encourage the conservation, development, and utilization of natural resources. The following goal related to cultural resources is presented in the Cultural Resources Element and is applicable to the proposed project:

Goal 1: Preserve and protect historical, archeological, and paleontological resources.

City of San Juan Capistrano Historical and Cultural Landmarks Ordinance. The City has adopted the Historical and Cultural Landmarks Ordinance, which prohibits the damage of any resource listed in the City's Inventory of Historical and Cultural Landmarks without first obtaining approval from the City. Applications to remove such a resource are reported to the Cultural Heritage Commission, which must then make a decision within 30 days. Decisions made by the Cultural Heritage Commission can subsequently be appealed to the City Council.

City of San Juan Capistrano Historic Preservation Ordinance. The City has adopted the Historic Preservation Ordinance that establishes permitting and conditional uses of properties located within a designated historic district. This ordinance also prohibits the damaging of any designated historic resource in any way.

City of San Juan Capistrano Historical, Archaeological, and Paleontological Resource Management Guidelines. In 1997, the City revised City Council Policy 601 and renamed this policy, "Historical, Archaeological, and Paleontological Resource Management Guidelines." These guidelines aim to ensure that cultural resource evaluations for projects within the City are conducted by qualified individuals. The policy also establishes procedures for reviewing these reports and mitigation

measures to address potential impacts to previously unknown cultural resources during construction activities. In the event cultural resources are discovered, these guidelines require that the locations of all significant historic resources within the City be recorded.

City of San Juan Capistrano Municipal Code. Article 3, Development Review Procedures, establishes regulations for the conservation of historic resources and requires City approval for any construction or alteration of designated historic structures.

4.4.5 Thresholds of Significance

The thresholds for cultural resources impacts used in this analysis are consistent with Appendix G of the *State CEQA Guidelines* and the City's *Local Guidelines for Implementing CEQA* (2019). The proposed project may be deemed to have a significant impact with respect to cultural resources if it would:

Threshold 4.4.1: Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?

Threshold 4.4.2: Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5 of CEQA?

Threshold 4.4.3: Disturb any human remains, including those interred outside of dedicated cemeteries?

The Initial Study, included as Appendix A, substantiates that there would be no impacts associated with Threshold 4.4.1 because no previously recorded historical resources are within the project site, and furthermore the City's map of locations of historic buildings and structures does not indicate any historical resources within the project site. This threshold will not be addressed in the following analysis.

4.4.6 Project Impacts

Threshold 4.4.2: Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5 of CEQA?

Less than Significant Impact with Mitigation Incorporated. The records search and field search did not identify any recorded archaeological resources on or in the immediate vicinity of the project site. However, the project site is located adjacent to San Juan Creek, and 1 mile from the coast in an area near recorded prehistoric and historic resources. The archaeological sensitivity of the project vicinity is high, as indicated by the presence of numerous prehistoric archaeological sites along the east bank of San Juan Creek. However, these cultural resource sites are at a higher elevation than the project area itself, which is on a low terrace directly adjacent to San Juan Creek, suggesting a slightly lower chance of cultural resource sites directly within the project area which may reflect avoidance of areas along the creek that were likely to flood. As a result, it remains possible that buried, previously unrecorded cultural resources could be present in native soils on the project site and disturbed during project construction.

Mitigation Measure CUL-1 is proposed and requires monitoring by both a qualified archaeologist and a Native American monitor. The measure includes procedures for recovering any significant or unique archaeological resource and for preparation of a report that documents any cultural resource recovery at the project site. All procedures conducted as part of Mitigation Measure CUL-1 would comply with the applicable provisions for the management of historic, archaeological, and paleontological resources as described in City Council Policy 601. With implementation of Mitigation Measure CUL-1, impacts to previously unrecorded cultural resources would be less than significant.

Threshold 4.4.3: Disturb any human remains, including those interred outside of dedicated cemeteries?

Less than Significant Impact with Mitigation Incorporated. Although no human remains are known to be on the project site or are anticipated to be discovered during project construction, the archaeological sensitivity of the project vicinity is high. There is always a possibility of encountering unanticipated cultural resources, including human remains. Precautionary mitigation is required to ensure that the proposed project does not impact or disturb any human remains.

Mitigation Measure CUL-2 requires compliance with CCR Section 15064.5(e) in the unlikely event that human remains are encountered during project grading. Upon discovery of the remains, the Orange County (County) Coroner would be notified immediately, and no further disturbance would occur until the County Coroner makes a determination of origin and disposition pursuant to PRC Section 5097.98. If the remains are determined to be Native American, the County Coroner would notify the NAHC, which would then determine and notify the MLD. With permission from the City, the MLD would complete inspection within 48 hours of notification by the NAHC. Implementation of Mitigation Measure CUL-2 would reduce potential impacts related to the discovery of human remains on the project site to a less than significant level, and no additional mitigation is required.

4.4.7 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.

4.4.8 Regulatory Compliance Measures and Mitigation Measures

4.4.8.1 Regulatory Compliance Measures (RCMs)

No regulatory compliance measures are required for the proposed project.

4.4.8.2 Mitigation Measures (MMs)

The proposed project would comply with the following mitigation measures.

MM CUL-1 Cultural Resources Monitoring and Accidental Discovery. Prior to the issuance of grading permits, and in adherence to the recommendations of the cultural resources survey, the project Applicant shall retain, with approval of the City of San Juan Capistrano (City) Development Services Director, or designee, a qualified archaeological monitor. A monitoring plan should be prepared by the archaeologist

and implemented upon approval by the City. Prior to issuance of grading permits, the project Applicant, with City approval, shall also retain a Native American monitor to be selected by the City after consultation with interested tribal and Native American representatives. Both monitors shall be present on the project site during ground-disturbing activities to monitor rough and finish grading, excavation, and other ground-disturbing activities in the native soils. Because no cultural resources were identified on the project site, both monitors are not required to be present on a full-time basis, but shall spot check ground-disturbing activities to ensure that no cultural resources are impacted during construction activities.

If cultural materials are discovered during site preparation, grading, or excavation, the construction contractor shall divert all earthmoving activity within and around the immediate discovery area until a qualified archaeologist can assess the nature and significance of the find. Project personnel shall not collect or move any archaeological materials or human remains and associated materials. To the extent feasible, project activities shall avoid these deposits. Where avoidance is not feasible, the archaeological deposits shall be evaluated for their eligibility for listing on the California Register of Historical Resources. If the deposits are not eligible, avoidance is not necessary. If the deposits are eligible, adverse effects on the deposits must be avoided, or such effects must be mitigated. Mitigation can include, but is not necessarily limited to: excavation of the deposit in accordance with a data recovery plan (see California Code of Regulations [CCR] Title 4(3) Section 5126.4(b)(3)(C)) and standard archaeological field methods and procedures; laboratory and technical analyses of recovered archaeological materials; production of a report detailing the methods, findings, and significance of the archaeological site and associated materials; curation of archaeological materials at an appropriate facility for future research and/or display; an interpretive display of recovered archaeological materials at a local school, museum, or library; and public lectures at local schools and/or historical societies on the findings and significance of the site and recovered archaeological materials. The City Development Services Director, or designee, shall be responsible for reviewing any reports produced by the archaeologist to determine the appropriateness and adequacy of the findings and recommendations.

MM CUL-2 **Human Remains.** Consistent with the requirements of CCR Section 15064.5(e), if human remains are encountered during site disturbance, grading, or other construction activities on the project site, the construction contractor shall halt work within 25 feet of the discovery; all work within 25 feet of the discovery shall be redirected and the Orange County (County) Coroner notified immediately. No further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. If the remains are determined to be Native American, the County Coroner shall notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the City, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48

hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials. Consistent with CCR Section 15064.5(d), if the remains are determined to be Native American and an MLD is notified, the City shall consult with the MLD identified by the NAHC to develop an agreement for the treatment and disposition of the remains.

Upon completion of the assessment, the consulting archaeologist shall prepare a report documenting the methods and results and provide recommendations regarding the treatment of the human remains and any associated cultural materials, as appropriate, and in coordination with the recommendations of the MLD. The report shall be submitted to the City Development Services Director, or designee, and the South Central Coastal Information Center. The City Development Services Director, or designee, shall be responsible for reviewing any reports produced by the archaeologist to determine the appropriateness and adequacy of the findings and recommendations.

4.4.9 Level of Significance after Mitigation

No impacts to historical resources would occur. Mitigation Measures CUL-1 and CUL-2 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. After mitigation has been implemented, all anticipated impacts to cultural resources would be considered less than significant.

4.4.10 Cumulative Impacts

As defined in Section 15130 of the *State CEQA Guidelines*, cumulative impacts are the incremental effects of an individual project when viewed in connection with the effects of past, current, and probable future projects within the cumulative impact area for cultural resources. The cumulative impact area for cultural resources for the proposed project is the City of San Juan Capistrano.

Potential impacts of the proposed project to unknown cultural resources, when combined with the impacts of past, present, and reasonably foreseeable projects in the City of San Juan Capistrano, could contribute to a cumulatively significant impact due to the overall loss of archaeological artifacts and fossil remains unique to the region. However, each development proposal received by the City is required to undergo environmental review pursuant to CEQA. If there were any potential for significant impacts to archaeological resources, an investigation would be required to determine the nature and extent of the resources and identify appropriate mitigation measures. When resources are assessed and/or protected as they are discovered, impacts to these resources are less than significant.

As such, implementation of Mitigation Measures CUL-1 and CUL-2 would ensure that the proposed project, together with cumulative projects, would not result in a significant cumulative impact to unique archaeological resources and previously undiscovered buried human remains.

4.4.11 Project Alternatives

4.4.11.1 Alternative 1

Alternative 1 would allow for the future construction of a 161,385-square-foot (sf) Ganahl Lumber hardware store and lumber yard and a 399-space vehicle storage facility, but no drive-through restaurant uses would be developed. This alternative represents a reduction of 6,000 sf of drive-through restaurant use as compared to the proposed project. Under Alternative 1, Area A would provide 150 parking spaces, compared to 62 parking spaces provided in Area A as part of the proposed project.

Most components of the proposed project, such as outdoor lighting, circulation and access, signage, utilities and drainage, sustainability features, landscaping, and construction phasing, and grading, would not significantly change with the implementation of Alternative 1. Components specific to Area A, such as the location of walkways, retaining walls fences, and gates, would also not change under Alternative 1. The modification and installation of existing and new utilities and infrastructure associated with the proposed project would still occur under Alternative 1. Although Alternative 1 would not involve the development of structures on Area A as the proposed project would, the entirety of Area A would still be cleared, excavated, graded, and paved to accommodate surface parking.

Although Alternative 1 would not involve the construction of restaurant structures, the area of disturbance is the same as under the proposed project and potential impacts to unknown cultural resources would be similar for Alternative 1 as to those of the proposed project. Mitigation Measures CUL-1 and CUL-2 would still be applicable under Alternative 1 to protect any unknown archaeological resources and previously undiscovered buried human remains. Overall, impacts to cultural resources under Alternative 1 would be similar to the proposed project's impacts. With the incorporation of mitigation, Alternative 1 would have less than significant impacts to archaeological resources and previously undiscovered buried human remains.

Because impacts related to cultural resources for Alternative 1 would be less than those associated with the proposed project, implementation of Mitigation Measures CUL-1 and CUL-2 would also ensure that Alternative 1, together with cumulative projects, would not result in a significant cumulative impact to unique archaeological resources and previously undiscovered buried human remains.

4.4.11.2 Alternative 2

Alternative 2 would allow for the future construction of a 161,385 sf Ganahl Lumber hardware store and lumber yard, a 399-space vehicle storage facility, and 2,000 sf of drive-through restaurant uses, which represents a reduction of 4,000 sf of drive-through restaurant uses as compared to the proposed project. The reduction in drive-through square footage on Area A as compared to the proposed project would allow for additional parking spaces. Under Alternative 2, Area A would provide approximately 80 parking spaces, whereas the proposed project would provide 62 parking spaces.

Components of the proposed project, such as outdoor lighting, circulation and access, signage, utilities and drainage, sustainability features, landscaping, and construction phasing and grading would not change under the implementation of Alternative 2. Components specific to Area A, such as the location of walkways, retaining walls, fences, and gates, would not vary between the proposed project and Alternative 2. Alternative 2 would involve the grading and paving of Area A for one building pad for drive-through restaurant use rather than two building pads for two drive-through restaurants.

Although Alternative 2 would involve the construction of fewer structures than the proposed project, the entirety of Area A would still be cleared, excavated, graded, and paved to accommodate surface parking and one building pad for the drive-through restaurant use. Because the area of disturbance is the same as under the proposed project, potential impacts to unknown cultural resources would be similar for Alternative 2 as to those of the proposed project. Mitigation Measures CUL-1 and CUL-2 would still be applicable under Alternative 2 to protect any unknown archaeological resources and previously undiscovered buried human remains. Overall, impacts to cultural resources under Alternative 2 would be similar to the proposed project's impacts. With the incorporation of mitigation, Alternative 2 would have less than significant impacts to archaeological resources and previously undiscovered buried human remains.

Because impacts related to cultural resources for Alternative 2 would be less than those associated with the proposed project, implementation of Mitigation Measures CUL-1 and CUL-2 would also ensure that Alternative 2, together with cumulative projects, would not result in a significant cumulative impact to unique archaeological resources and previously undiscovered buried human remains.

4.4.11.3 Alternative 3

Alternative 3 would allow for the future construction of a 161,385 sf Ganahl Lumber hardware store and lumber yard, a 399-space vehicle storage facility, and 4,000 sf of drive-through restaurant uses, which represents a reduction of 2,000 sf of drive-through restaurant use as compared to the proposed project. The reduction in drive-through square footage on Area A as compared to the proposed project would allow for additional parking spaces. Under Alternative 3, Area A would provide approximately 101 parking spaces, whereas the proposed project would provide 62 parking spaces.

Components of the proposed project, such as outdoor lighting, circulation and access, signage, utilities and drainage, sustainability features, landscaping, construction phasing, and grading would not change under the implementation of Alternative 3. Components specific to Area A, such as the location of walkways, retaining walls, fences, and gates, would not vary between the proposed project and Alternative 3. Alternative 3 would involve the grading and paving of Area A for one building pad for drive-through restaurant use rather than two building pads for two drive-through restaurants.

Although Alternative 3 would involve the construction of fewer structures than the proposed project, the entirety of Area A would still be cleared, excavated, graded, and paved to accommodate surface parking and one building pad for the drive-through restaurant use. Because the area of

disturbance is the same as under the proposed project, Alternative 3's potential impacts to unknown cultural resources would be similar to those of the proposed project. Mitigation Measures CUL-1 and CUL-2 would still be applicable under Alternative 3 to protect any unknown archaeological resources and previously undiscovered buried human remains. Overall, impacts to cultural resources under Alternative 3 are similar to those of the proposed project. With the incorporation of mitigation, Alternative 3 would have less than significant impacts to archaeological resources and previously undiscovered buried human remains.

Because impacts related to cultural resources for Alternative 3 would be less than those associated with the proposed project, implementation of Mitigation Measures CUL-1 and CUL-2 would also ensure that Alternative 3, together with cumulative projects, would not result in a significant cumulative impact to unique archaeological resources and previously undiscovered buried human remains.

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