

## K. CULTURAL AND PALEONTOLOGICAL RESOURCES

The purpose of this section is to: (1) describe the baseline conditions for cultural and paleontological resources of the MacArthur Transit Village project area; (2) describe the legal significance of identified historic architectural, archaeological, and paleontological resources within the project area; and (3) identify potentially-significant impacts to such resources that may result from project implementation, and recommend mitigations to reduce significant impacts.

Cultural resources are sites, buildings, structures, objects, and districts that may have traditional or cultural value for the historical significance they may possess. Cultural resources include a broad range of resources ranging from archaeological materials, to historic roadways and railroad tracks, to buildings of architectural significance. Generally, for a cultural resource to be considered a historical resource (i.e., eligible for listing in the California Register of Historical Resources) it must be 50 years or older.<sup>1</sup>

Paleontological resources include fossil plants and animals, and evidence of past life such as trace fossils and tracks. Ancient marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, 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.

CEQA requires that effects to cultural and paleontological resources be considered in the planning process for discretionary projects.

### 1. Cultural Resources Setting

This section presents the results of the cultural resources analysis conducted for the project area. The following sections provide: (a) regulatory setting; (b) methods of the analysis; (c) an overview of the area's historical setting; (d) a description of the existing conditions of project area cultural resources; and (e) an overview of the area's archaeological sensitivity.

**a. Regulatory Context.** The following describes the CEQA and the City of Oakland Historic Preservation Element of the General Plan regulatory and policy requirements for cultural resources.

**(1) CEQA Requirements.** In the City of Oakland, an "historical resource" under CEQA is a resource which meets any of the following criteria:

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<sup>1</sup> California Office of Historic Preservation, 2006:3. *California Register and National Register: A Comparison (for purposes of determining eligibility for the California Register)*. Technical Assistance Series No. 6. California Department of Parks and Recreation, Sacramento.

- A resource listed in, or determined eligible for listing in, the California Register of Historical Resources (California Register);
- A resource included in Oakland's Local Register of historical resources, unless the preponderance of evidence demonstrates that it is not historically or culturally significant;
- A resource identified as significant (e.g., rated 1-5) in a historical resource survey recorded on Department of Parks and Recreation Form 523, unless the preponderance of evidence demonstrates that it is not historically or culturally significant;
- Meets the criteria for listing on the California Register of Historical Resources; or
- A resource that is determined by the Oakland City Council to be historically or culturally significant even though it does not meet the other four criteria listed here.

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”  
*CEQA Guidelines* Section 15064.5(a)(3).

In accordance with *CEQA Guidelines* Section 15064.5(b), a substantial adverse change in the significance of a historical resource is a significant effect on the environment. A substantial adverse change in the significance of a historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historical resource would be materially impaired. The significance of a historical resource is “materially impaired” when a project demolishes or materially alters, in an adverse manner, those physical characteristics of the resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in, a historical resource list.

CEQA requires a Lead Agency to determine if an archaeological cultural resource meets the definition of a historical resource, a unique archaeological resource, or neither (*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 *CEQA Guidelines* Section 15064.5(c)(1). If the archaeological cultural resource meets the definition of a historical resource, then it is treated like any other type of historical resource in accordance with *CEQA Guidelines* Section 15126.4. If the archaeological cultural resource does not meet the definition of a historical resource, then the lead agency determines if it meets the definition of a unique archaeological resource as defined

at CEQA 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.<sup>2</sup> Should the archaeological cultural resource meet the definition of a unique archaeological resource, then it must be treated in accordance with CEQA Section 21083.2. If the archaeological cultural resource does not meet the definition of a historical resource or an archaeological resource, then effects to the resource are not considered significant effects on the environment (*CEQA Guidelines* Section 15064.5(c)(4)).

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 Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission 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 (PRC) Section 5097.5 provides for the protection of cultural and paleontological resources. This PRC section prohibits the removal, destruction, injury, or defacement of archaeological and paleontological features on any public lands under the jurisdiction of State or local authorities.

**(2) Historic Preservation Element.** The Historic Preservation Element (HPE) of the Oakland General Plan presents goals, policies, and objectives that guide historic preservation efforts in Oakland. HPE policies define the criteria for legal significance that must be met by a resource before it is listed in Oakland's local register of historical resources, and would, therefore, be considered a historical resource under CEQA. Based on a city-wide preliminary architectural inventory, the Oakland Cultural Heritage Survey (OCHS), pre-1945 properties have been assigned a significance rating of A, B, C, D, or E and assigned a number (1, 2, or 3) which indicates its district status. The ranking system, described in Table IV.K-1, indicates a property's status as a historical resource and identifies those properties warranting special consideration in the planning process. The Individual Property Rating of a building is based on the following criteria:

Visual Quality/Design: Evaluation of exterior design, interior design, materials and construction, style or type, supporting elements, feelings of association, and importance of designer.

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<sup>2</sup> Bass, Ronald E., Albert I. Herson, and Kenneth M. Bogdan, 1999:105. *CEQA Deskbook: A Step-by-Step Guide on how to Comply with the California Environmental Quality Act*. Solano Press Books, Point Arena, California.

**Table IV.K-1 Oakland Cultural Heritage Survey Significance Ratings**

Rating Level	Description
<b>A: Properties of Highest Importance</b>	This designation applies to properties considered clearly eligible for individual National Register and City Landmark designation. Such properties consist of outstanding examples of an important style, type, or convention, or intimately associated with a person, organization, event, or historical pattern of extreme importance at the local level or of major importance at the state or national level.
<b>B: Properties of Major Importance</b>	These are properties of major historical or architectural value but not sufficiently important to be rated "A." Most are considered individually eligible for the National Register, but some may be marginal candidates. All are considered eligible for City Landmark designation and consist of especially fine examples of an important type, style, or convention, or intimately associates with a person, organization, event, or historical pattern of major importance at the local level or of moderate importance at the state or national level.
<b>C: Properties of Secondary Importance</b>	These are properties that have sufficient visual/architectural or historical value to warrant recognition but do not appear individually eligible for the National Register. Some may be eligible as City Landmarks and are superior or visually important examples of a particular type, style, or convention, and include most pre-1906 properties
<b>D: Properties of Minor Importance</b>	These are properties which are not individually distinctive but are typical or representative examples of an important type, style, convention, or historical pattern. The great majority of pre-1946 properties are in this category.
<b>E, F, or *: Properties of No Particular Interest</b>	Properties that are less than 45 years old or modernized.
District Status	Description
1	A property in an Area of Primary Importance (API) or National Register quality district. An API is a historically or visually cohesive area or property group identified by the OCHS which usually contains a high proportion of individual properties with ratings of "C" or higher.
2	A property in an Area of Secondary Importance (ASI) or a district of local significance. An ASI is similar to an API except that an ASI does not appear eligible for the National Register.
3	A property not within a historic district.

Note: Properties with ratings of "C" or higher or are contributors to or potential contributors to an API or ASI are considered Potential Designated Historic Properties (PDHP) that may warrant consideration for preservation by the City. The OCHS has assigned some properties a contingency rating, indicated by a lower-case letter. A contingency rating is a potential rating under some condition, such as "if restored" or "when older" or "with more information."

History/Association: Association of person or organization, the importance of any event, association with patterns, and the age of the building.

Context: Continuity and familiarity of the building within the district.

Integrity and Reversibility: Evaluation of the building's condition, its exterior and interior alterations, and any structural removals.

The HPE also establishes the following policy with respect to historical resources under CEQA:

- Policy 3.8: For the purposes of environmental review under CEQA, the following properties will constitute the City of Oakland's Local Register:
  - All "Designated Historic Properties," i.e., those properties that are City Landmarks, which contribute to or potentially contribute to Preservation Districts, and Heritage Properties;
  - Those "Potential Designated Historic Properties" that have an existing rating of "A" or "B" or are located within an "Area of Primary Importance;"
  - Until complete implementation of Action 2.1.2 (Redesignation), the "Local Register" will also include the following designated properties: Oakland Landmarks, S-7 Preservation Combining Zone properties, and Preservation Study List properties.

The HPE includes other policies that seek to encourage the preservation of Oakland's significant historic resources within the context of balanced development and growth. These policies are presented below.

- Policy 3.1: Avoid or Minimize Adverse Historic Preservation Impacts Related to Discretionary City Actions. The City will make all reasonable efforts to avoid or minimize adverse effects on the Character-Defining Elements of existing or Potential Designated Historic Properties which could result from private or public projects requiring discretionary actions.
- Policy 3.4: City Acquisition of Historic Preservation Where Necessary. Where all other means of preservation have been exhausted, the City will consider acquiring, by eminent domain if necessary, existing or Potential Designated.

Historic Properties, or portions thereof, in order to preserve them. Such acquisition may be in fee, as conservation easements, or a combination thereof.

- Policy 3.5: Historic Preservation and Discretionary Permit Approvals. For any project involving the complete demolition of Heritage Properties or Potential Designated Historic Properties requiring discretionary City permits, the City will make a finding that: (1) the design quality of the proposed project is at least equal to that of the original structure and is compatible with the character of the neighborhood; or (2) the public benefits of the proposed project outweigh the benefit of retaining the original structure; or (3) the existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.
- Policy 3.7: Property Relocation Rather than Demolition. As a condition of approval for all discretionary projects involving demolition of existing or Potential Designated Historic Properties,

the City will normally require that reasonable efforts be made to relocate the properties to an acceptable site.

Although the HPE focuses primarily on built environment resources, prehistoric and historical archaeological resources are also considered under the following policy:

- Policy 4.1: Archaeological Resources. To protect significant archaeological resources, the City will take special measures for discretionary projects involving ground disturbances located in archaeologically sensitive areas. This policy entails that mitigation measures are typically incorporated into the project as part of the environmental review process, which can include a surface reconnaissance by an archaeologist to identify archaeological deposits; monitoring of ground disturbance during construction to identify archaeological resources and stopping work if necessary to provide recommendations for the treatment of uncovered archaeological materials; and performing limited pre-construction archaeological excavations to determine whether archaeological materials are present.

**(3) City of Oakland's Standard Conditions of Approval.** The City's Standard Conditions of Approval relevant to this impact topic are listed below for reference. The conditions of approval will be adopted as requirements of the proposed project if the project is approved by the City to help ensure no significant impacts (for the applicable topic) occur, as a result they are not listed as mitigation measures.

**COA CULT-1: Archaeological Resources.** *Ongoing throughout demolition, grading, and/or construction*

Pursuant to CEQA Guidelines section 15064.5 (f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore, in the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist or paleontologist to assess the significance of the find. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified archaeologist would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Oakland. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.

In considering any suggested measure proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the project applicant shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while measure for historical resources or unique archaeological resources is carried out.

Should an archaeological artifact or feature be discovered on-site during project construction, all activities within a 50-foot radius of the find would be halted until the findings can be fully

investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project applicant and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate measure, subject to approval by the City of Oakland, which shall assure implementation of appropriate measure measures recommended by the archaeologist. Should archaeologically-significant materials be recovered, the qualified archaeologist shall recommend appropriate analysis and treatment, and shall prepare a report on the findings for submittal to the Northwest Information Center.

**COA CULT-2: Human Remains.** *Ongoing throughout demolition, grading, and/or construction*

In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

**COA CULT-3: Paleontological Resources.** *Ongoing throughout demolition, grading, and/or construction*

In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards (SVP 1995, 1996)). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

**b. Methods.** Background research for this cultural resources analysis included a records search, literature review, and consultation with the Native American Heritage Commission (NAHC) and historical organizations. This research was conducted to identify cultural resources studies of or cultural resource within or immediately adjacent to the project area, and to prepare the archaeological, ethnographic, and historical setting of the project area.

**(1) Records Searches.** A records search (File #06-1717) was completed at the Northwest Information Center (NWIC) of the California Historical Resources Information System, Sonoma State University, Rohnert Park, of the project area and a ¼-mile radius on

May 4, 2007. The NWIC, an affiliate of the State of California Office of Historic Preservation, is the official state repository of cultural resources records and reports for Alameda County.

As part of the records search LSA reviewed the following State of California inventories for cultural resources in and adjacent to the project area:

- *California Inventory of Historic Resources* (California Department of Parks and Recreation 1976);
- *Five Views: An Ethnic Historic Site Survey for California* (California Office of Historic Preservation 1988);
- *California Historical Landmarks* (California Office of Historic Preservation 1996);
- *California Points of Historical Interest* (California Office of Historic Preservation 1992);
- *Directory of Properties in the Historic Property Data File* (California Office of Historic Preservation March 28, 2007). The directory includes the listings of the National Register of Historic Places, National Historic Landmarks, the California Register of Historical Resources, California Historical Landmarks, and California Points of Historical Interest.

On May 22 and October 2 2007, records searches of the project area and adjacent buildings were conducted at the Oakland Cultural Heritage Survey (OCHS). The OCHS is a division of the Oakland Community and Economic Development Agency and has completed Historic Resources Inventory and/or California Department of Parks and Recreation 523 forms for numerous buildings and structures of historical interest throughout the City.

On May 16, 2007, LSA faxed a letter describing the project and a map depicting the project area to the Native American Heritage Commission (NAHC) in Sacramento requesting a review of their sacred land file for any Native American cultural resources that might be affected by the proposed project. The NAHC is the official state repository of Native American sacred site location records.

**(2) Literature Review.** LSA reviewed prehistoric, ethnographic, and historical literature and maps for information about the project area. Materials reviewed are listed in the Cultural Resources technical report available for review at the City of Oakland Community and Economic Development Agency.

**(3) Consultation.** Consultation with the Alameda County Historical Society and Oakland Museum occurred as follows:

**Alameda County Historical Society.** On May 16, 2007, LSA sent a letter describing the project and a map depicting the project area to the Alameda County Historical Society (Society) requesting information or concerns regarding historical sites in the project area. On June 6, 2007, LSA contacted the Society by telephone to determine if the organization

has any information or concerns about historical sites in the project area. The receptionist stated that the Society has no concerns or comments.

**Oakland Museum.** On May 16, 2007, LSA sent a letter describing the project and a map depicting the project area to Lori Fogarty, Executive Director of the Oakland Museum of California (Museum). On June 6, 2007, LSA made a follow-up phone call to Lori Fogarty. Ms. Fogarty's assistant stated that Ms. Fogarty did not have any concerns regarding the project, but would ask her to call if she does have concerns or questions. No call has been received from Ms. Fogarty to date.

**(4) Field Survey.** An architectural historian with LSA conducted field reviews to identify historical architectural resources in and immediately adjacent to the project area on May 23 and June 6, 2007.

The parking lot and buildings covering most of the project area precluded an effective archaeological survey, and an archaeological field survey was not conducted.

**c. Prehistoric and Ethnographic Settings.** The Paleo-Archaic-Emergent cultural sequence developed by Fredrickson<sup>3</sup> is commonly used to interpret the prehistoric occupation of Central California. The sequence consists of three broad periods: the Paleoindian Period (10,000-6000 B.C.); the three-staged Archaic Period, consisting of the Lower Archaic (6000-3000 B.C.), Middle Archaic (3000-500 B.C.), and Upper Archaic (500 B.C.-A.D. 1000); and the Emergent Period (A.D. 1000-1800).

The Paleo Period began with the first entry of people into California. These people probably subsisted mainly on big game, minimally processed plant foods, and had few or no trade networks. Current research, however, is indicating more sedentism, plant processing, and trading than previously believed. During the Lower Archaic, milling stones appear in abundance and hunting is less important than plant foods. Artifacts are made predominantly from local materials, suggesting that few if any extensive trade networks were established at this time. During the Middle Archaic, the subsistence base begins to expand and diversify with a developing acorn economy, as evidenced by the mortar and pestle, and the growing importance of hunting. Status and wealth distinctions are evidenced in the Upper Archaic archaeological record; regional exchange networks are well established at this time with exchange of goods and ideas, such as obsidian and Kuksu ceremonial practices involving spirit impersonations. Increasing social complexity continued during the Lower Emergent. Territorial boundaries were well established by this time with regularized inter-group exchanges involving more and varied goods, people, and ideas. Bow and arrow technology was also introduced. By the Upper Emergent, a monetary system based on the

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<sup>3</sup> Fredrickson, David A., 1974. Cultural Diversity in Early Central California: A View from the North Coast Ranges. *Journal of California Anthropology* 1(1):41-53.

exchange of clamshell disk beads was established. Native population reached its zenith during this time, as evidenced by high site densities and large village sites in the archaeological record.

Historically, archaeological excavations along the eastern San Francisco bayshore have focused on shellmounds. These sites contain a rich, diverse assemblage of dietary remains, artifacts, and human remains. Excavations at two major shellmounds near the project area—the Emeryville Shellmound, CA-ALA-309, and the West Berkeley Shellmound, CA-ALA-307—have helped refine our understanding of the Bay Area’s earliest inhabitants. Excavations at the Emeryville Shellmound<sup>4, 5, 6</sup> have identified hundreds of human burials, groundstone (e.g., mortars, pestles, and “charmstones”), flaked stone (e.g., obsidian and chert projectile points and flaking debris), bone tools, and dietary debris, including clams, mussels, oysters, and land and sea mammal bones. Uhle,<sup>7</sup> Nelson,<sup>8</sup> and Bennyhoff<sup>9</sup> have identified temporal changes in artifact types, dietary refuse, and human internments in multiple strata at the site. Excavations at the West Berkeley Shellmound<sup>10</sup> have identified an assemblage as diverse as the Emeryville Shellmound’s, with two cultural components at the site. The oldest component at the West Berkeley Shellmound is believed to predate 2000 B.C. and the earliest known occupation of the Emeryville Shellmound.<sup>11</sup>

Prior to the historic period, the project area was situated within territory occupied by Costanoan—also commonly referred to as Ohlone—language groups. Ohlone territories were comprised of one or more land holding groups that anthropologists refer to as “tribelets.” The tribelet, a nearly universal characteristic throughout native California, consists of a principle village, which was occupied year round, and a series of smaller

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<sup>4</sup> Nelson, Nels C., 1996. *Excavation of the Emeryville Shellmound, 1906: Nels C. Nelson’s Final Report*, transcribed and prefaced by Jack M. Broughton. Contributions of the University of California Archaeological Research Facility, Number 54. Berkeley.

<sup>5</sup> Schenck, W. Egbert, 1926. The Emeryville Shellmound Final Report. *University of California Publications in American Archaeology and Ethnology* 23(3):147-282. Berkeley.

<sup>6</sup> Uhle, Max, 1907. The Emeryville Shellmound. *University of California Publications in American Archaeology and Ethnology* 7(1):1-106. Berkeley.

<sup>7</sup> Ibid.

<sup>8</sup> Nelson, Nels C., 1996.

<sup>9</sup> Bennyhoff, James A., 1986. *The Emeryville Site, Viewed 93 Years Later*. In *Symposium: A New Look at Some Old Sites: Papers from the Symposium Organized by Francis A. Riddell*. Coyote Press Archives of California Prehistory 6:65-74. Coyote Press, Salinas, California.

<sup>10</sup> Wallace, William J., and Donald W. Lathrap, 1975. *West Berkeley (CA-ALA-307): A Culturally Stratified Shellmound on the East Shore of San Francisco Bay*. Contributions of the University of California Archaeological Research Facility, Number 29. Berkeley.

<sup>11</sup> Wallace, William J., and Donald W. Lathrap, 1975:55, 58.

hamlets and resource gathering and processing locations occupied intermittently or seasonally.<sup>12</sup> Populations of tribelets ranged between 50 and 500 persons and were largely determined by the carrying capacity of a tribelet's territory. According to Milliken,<sup>13</sup> the *Huchiun* tribelet occupied the Oakland area at the time of Spanish contact.

By the late eighteenth century, Spanish exploration and settlement of the Bay Area transformed Ohlone culture. Spanish settlers moved into northern California and established the mission system. Mission records indicate that the first *Huchiun* was baptized in 1787 with the first large group from that tribelet arriving at Mission San Francisco in the fall of 1794.<sup>14</sup> Following the secularization of the missions in 1834, many Ohlone worked as manual laborers on ranchos.<sup>15</sup>

**d. Historical Setting.** The project site is entirely within the Rancho San Antonio land grant, which was originally granted to Luis Maria Peralta on August 3, 1820 for his service to the Spanish government. His 43,000-acre rancho included what are now the cities of Oakland, Berkeley, Alameda, and parts of San Leandro and Piedmont. Peralta's land grant was confirmed after Mexico's independence from Spain in 1822, and this title was honored when California entered the Union by treaty in 1848. Despite this acknowledged title, squatters moved in to use the vast amounts of Peralta's undeveloped land. Cattle were stolen and slaughtered, and trees were removed by squatters and people traveling to and from the gold fields.<sup>16</sup> Peralta Hacienda Historical Park at 34<sup>th</sup> Avenue in Oakland incorporates the headquarters of Luis Maria Peralta's Rancho San Antonio.

In 1850, Andrew Moon, Horace W. Carpentier, and Edson Adams built a house on Peralta's property at the foot of Broadway, near the banks of an estuary. This house site was in what is now Jack London Square. Vicente Peralta attempted to legally evict the group, but eventually relented and allowed them to lease the land. Instead of complying with the terms of their lease, Moon, Carpentier, and Adams hired Julius Kellersberger, a Swiss engineer, to survey the land and lay out the town that became Oakland. The area was encompassed by Fallon, Market, First, and Fourteenth streets. The City of Oakland was incorporated in 1852, and officially recognized by the state in 1854.<sup>17</sup>

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<sup>12</sup> Kroeber, Alfred L., 1955. Nature of the Land-Holding Group. *Ethnohistory* 2:303-314.

<sup>13</sup> Milliken, Randall, 1995:243. *A Time of Little Choice: The Disintegration of Tribal Culture in the San Francisco Bay Area, 1769-1810*. Ballena Press, Menlo Park, California.

<sup>14</sup> Milliken, Randall, 1995:243.

<sup>15</sup> Levy, Richard, 1978:486.

<sup>16</sup> Hoover, Mildred, Hero E. Rensch, Ethel G. Rensch, and William N. Abeloe, 1990:18-19. *Historic Spots in California*. Stanford University Press, Stanford, California.

<sup>17</sup> Ibid.

Oakland grew around its waterfront, with development limited only by the available modes of transportation. Steam ferry service to San Francisco was established in 1850, and by 1869 the first horse-car followed a route from the estuary up Telegraph Avenue to 40<sup>th</sup> Street. On November 8, 1869, the transcontinental railroad's first west bound trip rolled through Oakland along Central Pacific tracks, which terminated at the new 7<sup>th</sup> Street station. By 1891, Oakland's first street car ran along Broadway to the City of Berkeley.<sup>18</sup>

Subsequent to the devastation of the 1906 earthquake and fire in San Francisco, numerous refugees lived for months in tents set up in Lakeside Park on the shores of Lake Merritt. The influx of people to Oakland escaping the devastation from across the bay prompted the development of new residential areas in Oakland to accommodate displaced San Francisco residents. Older neighborhoods became more densely populated as new apartment buildings and related growth became part of Oakland's residential fabric.<sup>19</sup> Around this time, the project area became a more densely populated area, with new in-fill construction of residences on vacant lots.<sup>20</sup>

Throughout the 20<sup>th</sup> century, commercial enterprises and industrial development, particularly the Port of Oakland and the Oakland Municipal Airport, played a vital role in Oakland's growth. During World War II, the Port provided land and facilities to the Army and Navy. By 1943, Oakland had become the largest shipping center on the West Coast and within two decades was the largest container terminal on the West Coast. As suburbs grew outward during the 1950s, the inner core of the City began to decline as residents left for the outlying areas. The perception of Oakland, as with many large cities during the 1960s and 1970s, was that of a neglected urban core with high unemployment, racial tension, and reduced economic opportunity.<sup>21</sup> This trend began to reverse in the 1980s as reinvestment and redevelopment helped to invigorate the City's image and prospects. In 1995, California's "Golden Triangle," which included Oakland, San Jose and San Francisco, was named by *Fortune Magazine* as the best place to do business in the United States.<sup>22</sup>

**e. Existing Conditions.** The existing cultural resources conditions for this project are described below.

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<sup>18</sup> Oakland History Room of the Oakland Public Library, 2003. *Oakland History Timeline*, revised by the City of Oakland Community and Economic Development Agency <[www.oaklandnet.com/celebrate/historytimeline.htm](http://www.oaklandnet.com/celebrate/historytimeline.htm)>. Website accessed 9 January 2007.

<sup>19</sup> Woodbridge, Sally, 1984:11-12. Historical and Architectural Resources. In *Oakland Central District Development Program*. City of Oakland Planning Department, Oakland, California.

<sup>20</sup> Sanborn Fire Insurance Company Maps, 1902, 1911.

<sup>21</sup> Bagwell, Beth, 1982. *Oakland, Story of a City*. Presidio Press, Novato, California.

<sup>22</sup> Oakland History Room of the Oakland Public Library, 2003.

**(1) Records Search Results.** An overview of the records search results is provided below. A review of the Northwest Information Center (NWIC) database identified several cultural resource studies have been completed for seismic retrofit work on the BART system, including the MacArthur station.<sup>23, 24, 25, 26</sup> No prehistoric or historical archaeological sites are recorded within or immediately adjacent to the project area. The NWIC did not have any records of historical architectural resources in or immediately adjacent to the project area.

The *Directory of Properties in the Historic Property Data File* (March 28, 2007) was reviewed at the NWIC. The *Directory of Properties* indicates that the California Office of Historic Preservation (OHP) has assigned a Historical Resource Status Code of “6Y” to a building within the project area at 3901 Telegraph Avenue and a rating of “6Z” for a building adjacent to the project area at 3723 Telegraph Avenue. A 6Y Status Code indicates a property that was found ineligible for listing in the National Register by consensus through the Section 106 process but that the building was not evaluated for its eligibility for listing in the California Register or a local register of historical resources. A 6Z Status Code indicates a property that was found ineligible for the National Register, California Register, or Oakland Register through survey evaluation.

The project site includes seven existing buildings; five of these structures are included on the OCHS, as listed in Table IV.K-2. The building at 3875 Telegraph Avenue was under construction at the time of the OCHS survey in 1986 and has not been assigned a property rating by the City. Figure IV.K-1 shows the location of these buildings. None of the buildings are within or contributors to an historic district. The OCHS survey maps identify the buildings at 3901, -15, -17, -19, and -21 Telegraph Avenue and 526 and 544 West MacArthur Boulevard with a “✓” (check-mark), which indicates that these buildings were (1) less than 50 years old at the time of the OCHS survey, and/or (2) were preliminarily considered to be “D” rated properties at the time of the OCHS survey. D-rated buildings are considered to be Properties of Minor Importance under the City’s Historic Preservation

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<sup>23</sup> Caltrans, 2005a. *Archaeological Survey Report, BART Seismic Retrofit Project, Berkeley Hills Tunnel to Montgomery Street Station, Caltrans District 4, Alameda and San Francisco Counties, California*. California Department of Transportation, Oakland.

<sup>24</sup> Caltrans, 2005b. *Finding of No Adverse Effect, BART Seismic Retrofit Project, Berkeley Hills Tunnel to Montgomery Street Station, Caltrans District 4, Alameda and San Francisco Counties, California*. California Department of Transportation, Oakland.

<sup>25</sup> Caltrans, 2005c. *Historic Property Survey Report, BART Seismic Retrofit Project, Berkeley Hills Tunnel to Montgomery Street Station, Caltrans District 4, Alameda and San Francisco Counties, California*. California Department of Transportation, Oakland.

<sup>26</sup> Caltrans, 2005d. *Historical Resources Evaluation Report, BART Seismic Retrofit Project, Berkeley Hills Tunnel to Montgomery Street Station, Alameda and San Francisco Counties, California*. California Department of Transportation, Oakland.

**Table IV.K-2 Property Ratings/Historical Resource Status for Buildings Within Project Site**

Address	OCHS Rating	OHP Rating	Eligible for Historical Register?	CEQA Historical Resource?
1. 3875 Telegraph Avenue	Not Rated	Not Rated	No—Less than 50 years	No
2. 3901 Telegraph Avenue	D3	6Y	No	No
3. 3915, -17, -19, -21 Telegraph Avenue	D3	Not Rated	No	No
4. 526 West MacArthur Boulevard	✓	Not Rated	No	No
5. 544 West MacArthur Boulevard	✓	Not Rated	No	No

Note: OHP = Office of Historic Preservation.

Source: OCHS, 2007.

Element. The property ratings and historical resource status of buildings within the project area are summarized in Table IV.K-2.

The property ratings and historical resource status of buildings immediately adjacent to the project area are summarized in Table IV.K-3 and the locations are shown in Figure IV.K1. None of these buildings are listed in the Oakland Register, although, as indicated on the OCHS survey map, the building at the southwest corner of 40<sup>th</sup> Street and Telegraph Avenue intersection (3927, -29, -31, and -33 Telegraph Avenue) may qualify as a “B” rated property and would therefore qualify for listing in the Oakland Register. None of the buildings immediately adjacent to the project area are within or contributors to a recorded historic district.

Katy Sanchez, Native American Heritage Commission Program Analyst, responded in a faxed letter on May 16, 2007, that a review of the sacred land file did not indicate any “Native American cultural resources in the immediate project area.”

**(2) Prehistoric and Historical Archaeological Resources.** A review of the NWIC database did not indicate the presence of recorded prehistoric or historical archaeological deposits or ethnographic sites in or immediately adjacent to the project area. Background research did, however, indicate the possibility of subsurface historical archaeological deposits that predate the construction of the BART station and State Route 24 (SR-24). (See Historic Archaeological Sensitivity section below.)

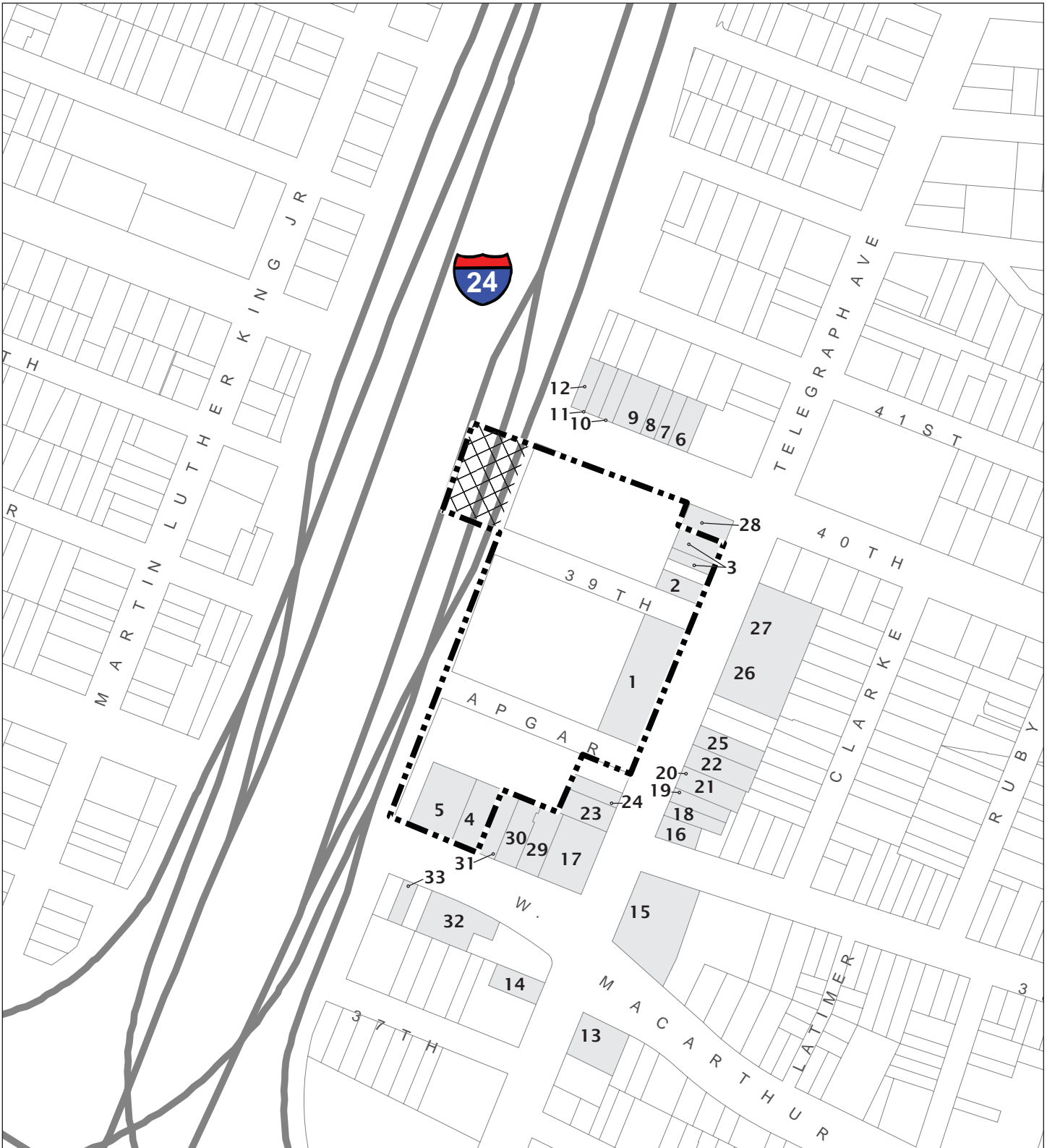


FIGURE IV.K-1

Legend

-  Project site
-  BART Plaza
-  Parcel lines



**MacArthur Transit Village Project EIR**  
**OCHS Properties Within and**  
**Adjacent to the Project Site**

SOURCE: CITY OF OAKLAND, 2005.

N:\1407011 MacArthur BART Transit Village EIR\Graphics\MacArthur BART EIR Graphics Files\figures (11/07/07)

**Table IV.K-3 Property Ratings/Historical Resource Status for Buildings Adjacent to Project**

Address	OCHS Rating	OHP Rating	Eligible for Historical Register?	CEQA Historical Resource?
6. 518 40 <sup>th</sup> Street	✓	Not Rated	No	No
7. 522 40 <sup>th</sup> Street	✓	Not Rated	No	No
8. 526 40 <sup>th</sup> Street	✓	No Rated	No	No
9. 530 40 <sup>th</sup> Street	✓ <sup>a</sup>	Not Rated	No	No
10. 542 40 <sup>th</sup> Street	✓	Not Rated	No	No
11. 548 40 <sup>th</sup> Street	✓	Not Rated	No	No
12. 554 40 <sup>th</sup> Street	✓	Not Rated	No	No
13. 3720 Telegraph Avenue	✓	Not Rated	No	No
14. 3723 Telegraph Avenue	✓	6Z	No	No
15. 3770 Telegraph Avenue	✓	Not Rated	No	No
16. 3800 Telegraph Avenue	Cb+	Not Rated	No	No
17. 3801 Telegraph Avenue	✓	Not Rated	No	No
18. 3810 Telegraph Avenue	✓	Not Rated	No	No
19. 3816 Telegraph Avenue	Dc3	Not Rated	No	No
20. 3820, -22, and -24 Telegraph Ave.	✓	Not Rated	No	No
21. 3830 Telegraph Avenue	✓	Not Rated	No	No
22. 3832 Telegraph Avenue	✓	Not Rated	No	No
23. 3833 Telegraph Avenue	✓ <sup>b</sup>	Not Rated	No	No
24. 3837, -39, -41, and -43 Telegraph	C3	Not Rated	No	No
25. 3838 and -40 Telegraph Avenue	✓	Not Rated	No	No
26. 3900 Telegraph Avenue	F	Not Rated	No	No
27. 3910-36 (even numbers)	✓	Not Rated	No	No
28. 3927, -29, -31, and -33 Telegraph	C3/B3 <sup>c</sup>	Not Rated	Unknown	Unknown
29. 508, -10 W. MacArthur	✓	Not Rated	No	No
30. 514 W. MacArthur	Dc3	Not Rated	No	No
31. 518 W. MacArthur	C3	Not Rated	No	No
32. 531 W. MacArthur	✓	Not Rated	No	No
33. 537, -39, -43, and -45 MacArthur	C3	Not Rated	No	No

Notes: OHP = Office of Historic Preservation.

✓ = Building was (1) less than 50 years old at the time the OCHS survey, and/or (2) was preliminarily considered to be "D" rated at the time of the OCHS survey.

<sup>a</sup> This building has a possible property rating of Dc3, as indicated on the OCHS survey map.

<sup>b</sup> This building has a possible property rating of C, as indicated on the OCHS survey map.

<sup>c</sup> This building was assigned a C3 property rating by OCHS. A marginal note on the OCHS survey map states, however, that "surely this [building] is a B!".

**Prehistoric Archaeological Sensitivity.** A predictive model for subsurface prehistoric archaeological deposits was completed for the BART seismic retrofit project in 2005 that is relevant for determining the potential for encountering subsurface prehistoric archaeological deposits in the project area.<sup>27</sup> This model was developed using site location data, information from recent archaeological investigations in the vicinity, soils and geological maps, and historical maps showing pre-urbanization creek pathways and bay shoreline. Based on the distribution of prehistoric archaeological sites recorded in the vicinity of the BART system in the Oakland area, it was determined that prehistoric sites were located within 623 feet from water (e.g., creeks, marshes, and shoreline). The MacArthur BART station does not fall within 623 feet of an unmodified course of a creek, marsh, or shoreline and is, therefore, in an area of low sensitivity for subsurface prehistoric archaeological deposits.<sup>28</sup>

**Historic Archaeological Sensitivity.** A sensitivity assessment was done of the project area to determine the likelihood of project activities encountering potentially-significant subsurface historical archaeological deposits. The assessment consisted of a review of Sanborn Fire Insurance maps to identify non-extant buildings that were in the project area and that may have a subsurface archaeological component (e.g., hollow-filled features, trash deposits, and foundations). This information was used to predict the type and nature of archaeological remains that may be within the project area.

Documentary research indicates that historical archaeological deposits within the project area will most likely include archaeological remains representing residential and commercial land use. The review of Sanborn Fire Insurance maps dating from 1902 to 1951 indicates that the project area was predominately residential for the first half of the twentieth century. In 1902, approximately half of the lots in the project area were occupied by residences, with two stores and a saloon fronting Telegraph Avenue between 39<sup>th</sup> and 40<sup>th</sup> streets. By 1911 additional residences and apartments had been built on vacant lots in the project area. The largest occupied lot in the project area by 1911 contained a two-story dwelling, garage, green house, and windmill and tank northwest of the intersection of Telegraph Avenue and Apgar at the current location of the Surgery Center and parking lots. This lot roughly corresponds to the "site of Apgar Mansion" as depicted on the OCHS survey maps. Businesses were located along Telegraph Avenue, including the previously mentioned saloon and a recently constructed carpenter shop at the approximate location where the parking lot at 3911 and building at 3915 Telegraph Avenue are today. By 1951, lots in the project area were still mostly occupied by residences and apartments, with the exception of lots along Telegraph Avenue, which were mostly occupied by businesses, including a tamale factory at the current location of the Surgery Center, a drive-in restaurant (now Lee's Auto

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<sup>27</sup> Caltrans, 2005a.

<sup>28</sup> Caltrans, 2005a:33.

Laundry), a furniture shop (currently a parking lot at 3911 Telegraph Avenue), and the present-day storefronts at 3915, -17, -19, and -21 Telegraph Avenue.

An aerial photograph from 1969 shows that portions of the project area had been graded, and many of the residences and associated buildings in the project area had been demolished or removed from the site for construction of the BART parking lot and station, and SR-24, which resulted in the parking lot area being excavated approximately 5 to 13 feet<sup>29</sup> below street grade.<sup>30</sup> Although the site has been previously graded and excavated; there is still some potential for intact subsurface archaeological deposits associated with the demolished buildings in the project area.

**(3) Historical Architectural Resources.** The project area includes buildings over 45 years old.<sup>31</sup> This section summarizes the National Register and California Register eligibility of the buildings in the project area and whether these buildings are listed in Oakland's Local Register of Historical Resources (Oakland Register).

Four parcels in the project area at 012-0967-049-01 (515 Apgar Street), 012-0968-055-01 (516 Apgar Street), 012-0969-053-02 (3911 Telegraph Avenue), and 012-0969-053-03 (532 39<sup>th</sup> Street) consist of modern asphalt parking lots used by BART commuters and adjacent businesses. These parking lots do not meet the minimum age requirements to qualify for listing in either the California or National registers nor do they otherwise qualify as historical resources under CEQA. The parcel at 012-0968-003-01 (3875 Telegraph Avenue) consists of a ca. 1987 medical building. This building does not meet the minimum age requirements for listing in either the California or National register nor does it otherwise qualify as an historical resource under CEQA.

**(#4) 526 West MacArthur Boulevard (Rio Motel).** The single, multi-unit building at 526 West MacArthur Boulevard (parcel number 012-0967-009-00) is in a dense residential and light commercial area. The period of significance for this building is from 1956 in the local context of post World War II automobile related lodging in Oakland and the Bay Area. Known as the "Rio Motel," this is a three-story, multi-unit wood framed, ell-shaped building with individual rooms, a parking area to the rear of the property, and an attached manager's

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<sup>29</sup> The BART parking lot was excavated approximately 5 to 13 feet below street grade in the late 1960s.

<sup>30</sup> Mitchell, William A., and Glenn S. Young, 2002:7. Phase I Environmental Site Assessment, MacArthur BART Transit Village Project, Oakland, California. SCI Subsurface Consultants, Inc, Oakland.

<sup>31</sup> The State of California Office of Historic Preservation recommends documenting, and taking into consideration in the planning process, any cultural resource that is 45 years or older (California Office of Historic Preservation 1995:2).

office. It is located on the north side of West MacArthur Boulevard and faces south. The building, constructed in 1956, is 51 years old, and is one of two motels located on the project site. The motel displays traits of Modern architectural style, prominent in the United States from approximately 1935 to the present.



*526 West MacArthur Boulevard*

The OCHS did not assign a property rating to the Rio Motel as it was less than 50 years old at the time of its survey in 1986. The California Office of Historic Preservation (OHP) has not assigned a Historical Resource Status Code to the building. The building meets the minimum age requirement (50 years)

for listing in the California and National registers, but lacks integrity of design, materials, and workmanship, due to structural alterations after the period of significance. The Rio Motel is not significant under any criterion for listing in either the California Register or National Register. The Rio Motel is not listed in the Oakland Register nor does it otherwise constitute an historical resource for purposes of CEQA.

**(#5) 544 West MacArthur Boulevard (Sleepy Hollow Motel).** The single, multi-unit building at 544 West MacArthur Boulevard (parcel number 012-00967-010-01) is located in a dense residential and light commercial area. The period of significance for this building is in 1955 in the local context of automobile related lodging in Oakland and the Bay Area. Known as the “Sleepy Hollow Motel,” it is a two-story U-shaped building with individual rooms and an attached manager’s office at the south, street facing, facade. The Sleepy Hollow Motel surrounds a common paved courtyard to accommodate guest parking. The motel is located on the north side of West MacArthur Boulevard and faces south. The building was constructed in 1955, is 52 years old, and is one of two motels on the project site. The motel displays a vernacular or homogenized motel style with elements of Spanish or Mission Revival.



*544 West MacArthur Boulevard*

The OCHS did not assign a property rating to the Rio Motel as it was less than 50 years old at the time of its survey in 1986. The OHP has not assigned a Historical Resource Status Code to the building. The building meets the minimum age requirement (50 years) for listing in the California and National registers, but lacks sufficient integrity of design, setting, materials, and workmanship due to later structural alterations. The Sleepy Hollow Motel is not significant under any criterion for listing in either the California Register or National Register. The Sleepy Hollow Motel is not listed in the Oakland Register nor does it otherwise constitute an historical resource for purposes of CEQA.

**(#2) 3901 Telegraph Avenue (Lee's Auto Laundry).** This structure is located at 3901 Telegraph Avenue (parcel number 012-0969-004). It is a single story commercial structure located on the west side of Telegraph and faces east. The period of significance for this building is 1946 to 1956 in the context of the rise of the automobile following World War II.



*3901 Telegraph Avenue*

Called Lee's Auto Laundry, the structure is made of wood and brick and prominently features a curved front façade with a wide flat overhang. The structural layout and features suggest an Art Moderne building, a style in use from the mid 1930s to the late 1940s. Art Moderne architectural characteristics include the use of rounded corners, a flat roof with a deep curved canopy, a smooth wall finish, and the placement of horizontal bands of windows creating a streamlined look that evokes a feeling of movement or speed. This building was built after 1945, making it a later expression of Art Moderne.

The OCHS assigned Lee's Auto Laundry a 'D' rating, indicating that it is a building of Minor Importance. In March 2006, the California OHP assigned a rating of 6Y to the building, indicating that it was found ineligible for listing in the National Register by a consensus determination through the Section 106 process. The building meets the minimum age requirement (50 years) for listing in the California and National registers, but subsequent changes in ownership, purpose, and necessary maintenance have diminished distinctively unique Art Moderne decorative elements such as signage, lighting, and curvilinear decorative accents. Integrity of design is compromised with a currently larger rear service-oriented section than the original, which results in the front curved section out of original proportion. Integrity of materials is lost with modern siding, windows, and filled in window casements on the south or 39<sup>th</sup> Street facing façade. The building is not significant under any criterion for listing in either the California Register or National Register. Lee's Auto Laundry is not listed in the Oakland Register nor does it otherwise constitute an historical resource for purposes of CEQA.

**(#3) 3915, -17, -19, and -21 Telegraph Avenue (Abyssinia Market, Bin's Coffee and Tea, Chef Yu Chinese Restaurant, and Braids by Betty).** This building is a joined single story commercial block building located on the east side of Telegraph Avenue (parcel numbers 012-0969-003-01 and 012-0969-002-00). The period of significance for these buildings is 1914 to 1940 in the context of local commercial development. The string of individual stores encompassing 3915, 3917, 3919, and 3921 Telegraph was originally constructed as a single three store facility in 1914 for W.M. MacKinnon, who commissioned local carpenter C.M. Maloof to build the structure. Records indicate the architect as a "J.W." (no last name is given). The research did not indicate information that MacKinnon or Maloof were historically significant. With the exception of 3915 Telegraph, which is a two-story, the buildings are single story with low pitched roofs behind false fronts of varying design and height. They are commercial vernacular and display no significant architectural design or style.

The OCHS assigned the commercial building block at 3915, 3917, 3919, and 3921 Telegraph Avenue a 'D' rating, indicating that it is a building of Minor Importance. The OHP has not assigned a Historical Resource Status Code to the building. The building meets the minimum age requirement (50 years) for listing in the California and National registers, but the building's integrity of original style, form, materials, and workmanship is lost due to decades of alterations that include new windows, siding, signage, and the addition of "Permastone" to the main façade. These alterations have covered up the original structural style and appearance. The building is not significant under any criterion for listing in either the California Register or National Register. The commercial building block is not listed in the Oakland Register nor does it otherwise constitute an historical resource for purposes of CEQA.



*3915, 3917, 3919, and 3921 Telegraph Avenue*

## 2. Paleontological Resources Setting

This section presents the results of a paleontological resources study conducted for the project. The following sections provide: (1) the study methods, and (2) a brief description of the project area's geological and paleontological setting.

**a. Methods.** The paleontological resources study consisted of: (1) a fossil locality search conducted by staff at the Museum of Paleontology at the University of California, Berkeley (UCMP) to identify paleontological resources within or adjacent to the project area; and (2) a

review of literature on file at LSA to determine the geological and paleontological history of the project area.

**(1) Fossil Locality Search.** A fossil locality search was conducted on May 8, 2007, by the staff at the University of California Museum of Paleontology (UCMP), Berkeley. No fossil localities were identified within or adjacent to the project area. The locality search identified 20 fossil localities within a 10-mile radius of the project area. These localities contain a wide variety of specimens from the Pleistocene, such as giant ground sloths, horses, bison, deer, mammoths, mastodons, short-faced bears, camels, rodents, reptiles, amphibians, birds, and fish.

**(2) Literature Review.** LSA reviewed paleontological and geological literature relevant to the project area and its vicinity. This review identified the project area as being underlain by Holocene-aged (present to 10,000 years old) alluvial fan deposits, as well as Pleistocene alluvial fan deposits.<sup>32</sup> The Pleistocene alluvial fan deposits are sensitive for significant paleontological resources, and underlie the Holocene-aged alluvial fan deposits present in the project area at an unknown depth.

**b. Paleontological Setting.** The project area is situated on Holocene-aged (present to 10,000 years old) alluvial deposits. Due to the recent age of such deposits, this alluvium is not sensitive for paleontological resources. Underlying the Holocene alluvium at an unknown depth is Pleistocene-aged (10,000 to 1.5 million years old) alluvium, which is sensitive for significant paleontological resources. The Franciscan Assemblage, which composes much of the hills east of Oakland, is probably the project area's deepest formation. The geologic formations, from youngest to oldest, are described below.

**(1) Soils.** The project area consists of urban land soils of the Danville Complex.<sup>33</sup> Danville soils are derived from sedimentary sources and tend to be very deep and well drained, and urban soils have been heavily altered or mixed by construction activities.

**Holocene Alluvial Fan Deposits (present to 10,000 years old).** These deposits are brown to tan, dense gravelly sands that grade upward to silty clay. These surficial deposits

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<sup>32</sup> Graymer, R.W., 2000. Geologic Map and Map Database of the Oakland Metropolitan Area, Alameda, Contra

Costa, and San Francisco Counties, California. U.S. Geological Survey, Miscellaneous Field Studies MF-2342. U.S.

Geological Survey, Washington D.C.

<sup>33</sup> Welch, Lawrence E., 1981:25. *Survey of Alameda County, California, Western Part*. United States Department of Agriculture, Soil Conservation Service, Washington D.C.

cover the majority of the Oakland metropolitan area, and are too young to contain significant paleontological resources. These deposits may be as much as 10 feet deep or more.

**Pleistocene Alluvial Fan Deposits (10,000 to 1.5 million years old).** This very thick layer of alluvium is probably present the project area. Nearby studies have shown it to be at least 150 feet thick,<sup>34</sup> but there is no data on the thickness of the overlying Holocene alluvial deposits in the project area. This alluvium is weakly consolidated and irregularly inter-bedded with clay, silt, sand, and gravel, and can locally contain fossils of fresh water gastropods and bivalves, and such Pleistocene mega-fauna as horse, camel, bison, sloth, and mammoth.<sup>35,36,37</sup>

**Franciscan Assemblage (65 to 144 million years old).** The Franciscan Assemblage is a formation of various igneous and sedimentary rocks formed in the Cretaceous period, and forms the deepest geological formation of the project area. It is buried under at least hundreds of feet of sediments. It has been known to contain radiolarian fossils in its chert layers, as well as marine invertebrate fossils and trace fossils in other sedimentary layers.<sup>38,39,40,41</sup> It is not known for containing vertebrate fossils.<sup>42,43</sup>

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<sup>34</sup> Graymer, R.W., op. cit.

<sup>35</sup> Bell, C.J., E.L. Lundelius, Jr., A.D. Barnosky, R.W. Graham, E.H. Lindsay, D.R. Ruez, Jr., H.S. Semken, Jr., S.D. Webb, and R.J. Zakrzewski, 2004. The Blancan, Irvingtonian, and Rancholabrean Mammal Ages. In *Late Cretaceous and Cenozoic Mammals of North America*, edited by M.O. Woodburne, pp. 232-314. Columbia University Press, New York.

<sup>36</sup> Helley et al., op. cit.

<sup>37</sup> Savage, D.E., 1951. *Late Cenozoic Vertebrates of the San Francisco Bay Region*. University of California Bulletin of the Department of Geological Science 28(10):215-314. Berkeley.

<sup>38</sup> Armstrong, C.F., and Kathy Gallagher, 1977. Fossils from the Franciscan Assemblage Alcatraz Island. *California Geology* 30:134-135.

<sup>39</sup> Little, Crispin T.S., Richard J. Herrington, Rachel M. Haymon, Taniel Danelian, 1999. Early Jurassic Hydrothermal Vent Community from the Franciscan Complex, San Rafael Mountains, California. *Geology* 27(2):167-170.

<sup>40</sup> Miller III, William, 1989. Paleontology of Franciscan Flysch at Point Saint George, Northern California. In *Geologic Evolution of the Northernmost Coast Ranges and Western Klamath Mountains, California: 28<sup>th</sup> International Geological Congress, Field Trip Guidebook T308*, edited by K.R. Aalto and G.D. Harper, pp. 47-52. American Geophysical Union, Washington D.C.

<sup>41</sup> Schlocker, Julius, 1974. *Geology of the San Francisco North quadrangle, California*. U.S. Geological Survey Professional Paper 782. U.S. Geological Survey, Washington D.C.

<sup>42</sup> Armstrong and Gallagher, op. cit.

<sup>43</sup> Camp, C.L., 1942. Ichthyosaur Rostra from Central California. *Journal of Paleontology* 16(3):362-371.

### 3. Impacts and Mitigation Measures

Implementation of the proposed project has the potential to significantly impact cultural and paleontological resources. Impact avoidance is the most desirable option, but this is not always feasible in a densely-built and populated urban area such as Oakland. If avoidance is not feasible, mitigation measures must be implemented that will offset significant impacts or reduce them to a less-than-significant level.

Project activities that have the potential to significantly impact cultural and paleontological resources include: (1) soil excavation and grading for semi-subterranean parking facilities and building utilities; (2) demolition of existing buildings; (3) construction of new buildings; and (4) enhancement of lighting and streetscape features on street frontages around the project area.

Potentially-significant impacts to paleontological and cultural resources that may occur as a result of project implementation are discussed below. Mitigation measures are then provided to reduce impact significance, where possible, to less-than-significant levels.

**a. Criteria of Significance.** Implementation of the project would have a significant impact on cultural and paleontological resources if it would:

- Cause a substantial adverse change in the significance of a historical resource as defined in *CEQA Guidelines* Section 15064.5. Specifically, substantial adverse changes include physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the historical resource would be “materially impaired”. The significance of a historical resource is “materially impaired” when a project demolishes or materially alters, in an adverse manner, those physical characteristics of the resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in, a historical resource list.

In the City of Oakland, an historical resource under CEQA is a resource that meets **any** of the following criteria:

- (1) A resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources;
- (2) A resource included in Oakland’s Local Register of historical resources (defined below), unless , the preponderance of evidence demonstrates that it is not historically or culturally significant;
- (3) A resource identified as significant (e.g., rated 1-5) in a historical resource survey recorded on Department of Parks and Recreation Form 523, unless the preponderance of evidence demonstrates that it is not historically or culturally significant;

- (4) Meets the criteria for listing on the California Register of Historical Resources; or  
(5) A resource that is determined by the Oakland City Council to be historically or culturally significant even though it does not meet the other four criteria listed here.

- Cause a substantial adverse change in the significance of an archaeological resource pursuant to *CEQA Guidelines* Section 15064.5;
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or
- Disturb any human remains, including those interred outside of formal cemeteries.

The City of Oakland's Local Register (Historic Preservation Element Policy 3.8) includes the following:

- All Designated Historic Properties (Landmarks, Heritage Properties, Study List Properties, Preservation Districts, and S-7 and S-20 Preservation Combining Zone Properties); and
- Those Potential Designated Historic Properties that have an existing rating of "A" or "B" or are located within an Area of Primary Importance.

**b. Less-than-Significant Cultural and Paleontological Resources Impacts.** The following describes the cultural and paleontological less-than-significant impacts. The project will not have a significant impact on historical architectural resources as none of the buildings in the project area qualify as historical resources under CEQA.

**(1) Prehistoric Archaeological Materials.** The project area is not in an area considered to be of high sensitivity for prehistoric archaeological materials. Nonetheless, the possibility of encountering such materials during ground-disturbing activities cannot be ruled out. Implementation of the City's Archaeological Resources Standard Condition of Approval (see COA CULT-1 on page 402 for treatment of the accidental discovery of archaeological deposits would reduce project impacts to a less-than-significant level.

**(2) Archaeological Resources.** Prior to the construction of SR-24 and the MacArthur BART station, the project area was primarily occupied by homes, apartments, and commercial establishments (Sanborn Fire Insurance Company 1902, 1911). Although grading for and construction of the MacArthur BART station and facilities may have removed or adversely affected the integrity of deposits associated with the historical neighborhood, the project area still has the potential to contain subsurface historical archaeological deposits associated with these former buildings. Such deposits may include wood, stone, concrete, footings, walls and other structural remains; debris-filled wells or privies; and deposits of wood, glass, ceramics, metal, and other refuse.

Implementation of the City's Standard Archaeological Resources Condition of Approval (see COA CULT-1 on page 402 for treatment of the accidental discovery of historical archaeological resources during demolition grading and construction would ensure no significant impacts would occur.

**(3) Historical Resources.** No historical resources exist on the project site as described in detail in the Cultural Resources technical report available for review at the City of Oakland Community and Economic Development Agency. A building adjacent to the project site (3927, -29, -31, and -33 Telegraph Avenue) at the southwest corner of the Telegraph Avenue/40<sup>th</sup> Street intersection may qualify as an historical resource under CEQA since it is possibly a B-rated property (a property of Major Importance as defined in the City's HPE), as indicated on the OCHS survey map.

The proposed project will not demolish, destroy, or relocate the building at the southwest corner of the Telegraph Avenue and 40<sup>th</sup> Street intersection. The project's construction of the Block A development will; however, affect this building's immediate surroundings due to the proximity and scale of the new construction to the historical resource. Effects will occur from new construction to the west and south, within approximately 5 feet of the historical resource, which will be from 10 to 20 feet taller than the existing historical building. The proximity of the proposed construction may detract somewhat from the existing streetside view of a historical building southwest of the Telegraph Avenue/40<sup>th</sup> Street intersection.

These project effects on the building at the southwest corner of the Telegraph Avenue/40<sup>th</sup> Street intersection; however, will be less than significant. The historical building is not within or adjacent to an historic district and existing adjacent construction consists of modern or older buildings whose appearance and historical integrity have been greatly altered from modern remodels and additions (e.g., 3915, -17, -19, and -21 Telegraph Avenue), and currently have the appearance of modern buildings. Modern, post-ca. 1970 construction is visible from the Telegraph Avenue/40<sup>th</sup> Street intersection, including the MacArthur BART station, parking lots, a medical office building at 3875 Telegraph Avenue, and elevated roadways to the west. While the proposed project will change the overall setting and configuration of the neighborhood adjacent to the historical building, these effects will not result in significant new alterations to the historical values of the existing urban streetscape.

**(4) Paleontological Resources.** The Pleistocene sediments that underlie the project area are sensitive for the occurrence of significant, nonrenewable paleontological resources. Excavation could inadvertently damage such resources and result in a significant adverse impact. The City's Standard Paleontological Resources Condition of Approval (see COA CULT-1 on page 402 will ensure no significant paleontological impacts would result.

**(5) Human Remains.** The proposed project is not anticipated to disturb human remains. Nonetheless, the possibility of encountering human remains during ground-disturbing activities cannot be ruled out. Implementation of the City's Human Remains Standard Condition of Approval (see COA CULT-2 on page 403 for the treatment of human remains would reduce project impacts to a less-than-significant level.

**c. Significant Cultural and Paleontological Resources Impacts.** No significant impacts to cultural resources would result from implementation of the project.

**d. Cumulative Cultural and Paleontological Resources Impacts.** The geographic area considered for the cultural and paleontological resources cumulative analysis is the City of Oakland. Construction activities associated with the proposed project and past, present existing, pending and reasonably foreseeable future projects could result in significant impacts to archaeological, historic and paleontological resources, and human remains. However, like the proposed project, past, present and future projects have or would be subject to the City's Standard Conditions of Approval designed to protect cultural and paleontological resources. The conditions of approval also include provisions to ensure the discovery of human remains is reported to the proper authorities. The proposed project would not result in the demolition of significant historic architectural resources. Therefore, the proposed project together with the impact of past, present and reasonably foreseeable future development would not contribute to a cumulative cultural or paleontological resources impact.

