

5.17 Tribal Cultural Resources

5.17.1 INTRODUCTION

This section addresses potential impacts to tribal cultural resources associated with implementation of the Project. The analysis in this section is based, in part, on the following documents and resources:

- *City of Perris General Plan 2030*, Adopted 26 April 2005
- *City of Perris General Plan 2030 Environmental Impact Report*, Certified 26 April 2005
- *Phase I Cultural Resources Assessment for the Harvest Landing Retail Center & Business Park Project*, prepared by BFS Environmental Services, 19 July 2024, included as Appendix H

5.17.2 REGULATORY SETTING

5.17.2.1 Federal Regulations

Archaeological Resources Protection Act

The Archaeological Resources Protection Act of 1979 regulates the protection of archaeological resources and sites on federal and Native American lands. The Archaeological Resources Protection Act regulates authorized archaeological investigations on federal lands; increased penalties for looting and vandalism of archaeological resources; required that the locations and natures of archaeological resources be kept confidential in most cases. In 1988, amendments to the Archaeological Resources Protection Act included a requirement for public awareness programs regarding archaeological resources.

Native American Graves Protection and Repatriation Act

The Native American Graves Protection and Repatriation Act is a federal law passed in 1990 that mandates museums and federal agencies to return certain Native American cultural items—such as human remains, funerary objects, sacred objects, or objects of cultural patrimony—to lineal descendants or culturally affiliated Indian tribes.

5.17.2.2 State Regulations

California Senate Bill 18

Senate Bill (SB) 18 (California Government Code Section 65352.3) sets forth requirements for local governments to consult with California Native American tribes identified by the Native American Heritage Commission (NAHC) to aid in the protection of tribal cultural resources. The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early stage of planning to protect or mitigate impacts on tribal cultural resources. The Tribal Consultation Guidelines: Supplement to General Plan Guidelines identifies the following contact and notification responsibilities of local governments:

- Prior to the adoption or any amendment of a general plan or specific plan, a local government must notify the appropriate tribes (on the contact list maintained by the NAHC) of the opportunity to conduct consultations for the purpose of preserving, or mitigating impacts to, cultural places located on land within the local government's jurisdiction that is affected by the proposed plan adoption or amendment.

Tribes have 90 days from the date on which they receive notification to request consultation, unless a shorter timeframe has been agreed to by the tribe (Government Code Section 65352.3).

- Prior to the adoption or substantial amendment of a general plan or specific plan, a local government must refer the proposed action to those tribes that are on the NAHC contact list and have traditional lands located within the city or county's jurisdiction. The referral must allow a 45-day comment period (Government Code Section 65352). Notice must be sent regardless of whether prior consultation has taken place. Such notice does not initiate a new consultation process.
- Local government must send a notice of a public hearing, at least 10 days prior to the hearing, to tribes who have filed a written request for such notice (Government Code Section 65092).

California Assembly Bill 52

Assembly Bill (AB) 52 established a requirement under CEQA to consider "tribal cultural values, as well as scientific and archaeological values when determining impacts and mitigation." Public Resources Code (PRC) Section 21074(a) defines "tribal cultural resources" as "[s]ites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe" that are either "[i]ncluded or determined to be eligible for inclusion in the California Register of Historical Resources" or "in a local register of historical resources." Additionally, defined cultural landscapes, historical resources, and archaeological resources may be considered tribal cultural resources (PRC Sections 21074(b), (c)). The lead agency may also in its discretion treat a resource as a tribal cultural resource if it is supported with substantial evidence.

In order to protect tribal cultural resources, lead agencies are required to offer consultation on CEQA documents to California Native American tribes traditionally and culturally affiliated with the project area prior to release of the CEQA document. Public Resources Code Section 21080.3.1(b) defines "consultation" as "the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement." Consultation must "be conducted in a way that is mutually respectful of each party's sovereignty [and] recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural significance." The consultation process is outlined as follows:

1. California Native American tribes traditionally and culturally affiliated with the project area submit written requests to participate in consultations.
2. Lead agencies are required to provide formal notice to the California Native American tribes that requested to participate within 14 days of the lead agency's determination that an application package is complete or decision to undertake a project.
3. California Native American tribes have 30 days from receipt of notification to request consultation on a project.
4. Lead agencies initiate consultations within 30 days of receiving a California Native American tribe's request for consultation on a project.
5. Consultations are complete when the lead agencies and California Native tribes participating have agreed on measures to mitigate or avoid a significant impact on a tribal cultural resource, or after a reasonable effort in good faith has been made and a party concludes that a mutual agreement cannot be reached (PRC Sections 21082.3(a), (b)(1)-(2); 21080.3.1(b)(1)).

AB 52 requires that the CEQA document disclose significant impacts on tribal cultural resources and discuss feasible alternatives or mitigation to avoid or lessen an impact.

California Health and Safety Code, Section 7050.5

This code requires that if human remains are discovered on a project site, disturbance of the site shall halt and remain halted until the coroner has conducted an investigation into the circumstances, manner, and cause

of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative. If the coroner determines that the remains are not subject to his or her authority and recognizes or has reason to believe the human remains are those of a Native American, he or she shall contact, by telephone within 24 hours, the NAHC.

California Public Resources Code, Sections 5097.9 to 5097.991

Public Resources Code Sections 5097.9 to 5097.991 provide protection to Native American historical and cultural resources and sacred sites and identify the powers and duties of the NAHC. These sections also require notification to descendants of discoveries of Native American human remains and provide for treatment and disposition of human remains and associated grave goods.

5.17.2.3 Local and Regional Regulations

City of Perris General Plan 2030

The City of Perris General Plan Conservation Element contains the following policies related to tribal cultural resources that are applicable to the Project:

- Policy IV.A.1** For all private and public projects involving new construction, substantial grading, or demolition, including infrastructure and other public service facilities, staff shall require appropriate surveys and necessary site investigations in conjunction with the earliest environmental document prepared for a project.
- Policy IV.A.2** For all projects subject to CEQA, applicants will be required to submit results of an archaeological records search request through the Eastern Information Center, at the University of California, Riverside.
- Policy IV.A.3** Require Phase I Surveys for all projects located in areas that have not previously been surveyed for archaeological or historic resources, or which lie near areas where archaeological and/or historic sites have been recorded.
- Policy IV.A.5** Identify and collect previous surveys of cultural resources. Evaluate such resource and consider preparation of a comprehensive citywide inventory of cultural resources including both prehistoric sites and man-made resources.
- Policy IV.A.6** Create an archive for the City wherein all surveys, collections, records and reports can be centrally located.
- Policy IV.A.7** Strengthen efforts and coordinate the management of cultural resources with other agencies and private organizations.

5.17.3 ENVIRONMENTAL SETTING

The following information in this subsection is based on the Phase I Cultural Resources Assessment, included as EIR Appendix H.

The Specific Plan Area is within an area where the traditional use territories of the Gabrielino, Luiseño, and Cahuilla peoples. Due to the nature of prehistoric archaeological sites identified by the Phase I Cultural Resources Assessment, the prehistoric setting discussion begins at the Paleo Indian Period (11,500 to circa 9,000 years ago). Paleo Indians were likely attracted to multiple habitat types, including mountains,

marshlands, estuaries, and lakeshores. These people likely subsisted using more generalized hunting, gathering, and collecting of birds, mollusks, and large and small animals.

The Archaic Period (circa 9,000 to 1,300 years ago) was a period where increased moisture allowed for more extensive occupation of the region. The material culture related to this time period includes mortar and pestle, dart points, and arrow points. The shifts in food processing technologies during each of these phases indicate a change in subsistence strategies; although people were still hunting for large game, plant-based foods eventually became the primary dietary resource.

Approximately 1,500 years ago, during the Late Prehistoric Period, bow and arrow technology started to emerge. This period is characterized by higher population densities and elaborations in social, political, and technological systems. Economic systems diversified and intensified during this period with the continued elaboration of trade networks, the use of shell-bead currency, and the appearance of more labor-intensive, yet effective, technological innovations. The shift in material culture assemblages is largely attributed to the emergence of Takic-speaking people who entered California from the east.

Takic-speaking groups continued to intensify through the Protohistoric Period (410 to 180 years ago). Three Takic-speaking groups occupied portions of Riverside County: the Cahuilla, the Gabrielino, and the Luiseño. The geographic boundaries between these groups in pre- and proto-historic times are difficult to place, but the Project site is located well within the borders of ethnographic Luiseño territory.

The Phase I Cultural Resources Assessment identified 24 prehistoric resources within one mile of the Specific Plan Area. These prehistoric resources include 20 bedrock milling sites, one habitation site with pictographs, two pictograph sites, and one isolate. None of the archeological resources are within the Specific Plan Area.

Currently, the site is mostly vacant except for two single-family residences, remnants of two previously demolished residences, and Val Verde Elementary School. The rest of the Specific Plan Area has been disturbed from past use as agricultural fields and from modern disking. The Project vicinity (within a 1-mile radius of the Specific Plan Area) is listed on the NAHC Sacred Lands File.

5.17.4 THRESHOLDS OF SIGNIFICANCE

Appendix G of the CEQA Guidelines indicates that a Project could have a significant effect if it were to:

- TCR-1 Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code § 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
- TCR-2 Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code § 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code § 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code § 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

5.17.5 METHODOLOGY

The tribal cultural resources analysis is based on the Phase I Cultural Resources Assessment and consultation carried out by the City of Perris pursuant to SB 18 and AB 52. The Phase I Cultural Resources Assessment included an archaeological and historical records search, completed at the Eastern Information Center for the Specific Plan Area. Pedestrian surveys were conducted at the Specific Plan Area; see Section 5.5.5 for details on the methodology. The NAHC was contacted to perform a Sacred Lands File search; and local Native American tribes were contacted to elicit local knowledge of cultural resource issues related to the Project.

5.17.6 ENVIRONMENTAL IMPACTS

As detailed in Section 3.0, *Project Description*, the proposed Project includes a Specific Plan Amendment to modify the existing land uses and development of the Project site pursuant to the proposed new land uses over two phases that are summarized below.

Phase 1 Development

Within Phase 1, the Project would construct and operate a 139.89-acre business park with seven buildings including a parcel hub, high cube warehouses, and light industrial buildings that would total 1,727,579 square feet; construct and operate a 22.16-acre shopping center with buildings totaling 250,457 square feet; and construct and operate a 167,060 square foot big box store on a 24.33-acre site with a 12-pump gas station and two fast-food restaurant parcels for two restaurants that would each be approximately 5,500 square feet.

In addition, during construction of Phase 1 the Project would implement street improvements on Indian Avenue, Orange Avenue, Frontage Road, Perris Boulevard, Barrett Avenue, Harvest Landing Way, and Private Drive A; install drainage infrastructure improvements in Perris Boulevard, Barrett Avenue, Orange Avenue, Indian Avenue, and Private Drive A; implement sewer line improvements in Perris Boulevard; implement water lines improvements in Barrett Avenue, Orange Avenue, Frontage Road, Walmart Supercenter Drive; and install a new water well for landscaping irrigation in the proposed drainage basin.

Phase 2 Buildout

The proposed amended Specific Plan buildout of the Phase 2 development area without inclusion of the overlay area would allow up to 3,659,693 square feet of warehouse, light industrial, and/or manufacturing uses under the Multiple Business Use designation, at a maximum floor area ratio of 0.75. Development of the 10.66-acre overlay area would include approximately 348,262 square feet of warehouse, light industrial, and/or manufacturing uses under the Multiple Business Use designation. Total development within the Phase 2 area, including the overlay area, would include up to 4,007,955 square feet of building area.¹ The analysis within this section assumes that construction would begin in 2026 and be completed by 2030, thereby overlapping with operation of Phase 1 developments.

¹ The Phase 2 buildout square footage of 4,007,955 square feet was based on the gross acreage of parcels within the Phase 2 area prior to roadway dedications. After roadway dedications, the maximum allowable development within Phase 2 would actually be 4,001,748 square feet. However, for purposes of providing a conservative analysis, a buildout of 4,007,955 square feet was assumed.

IMPACT TCR-1: THE PROJECT WOULD NOT CAUSE A SUBSTANTIAL ADVERSE CHANGE IN THE SIGNIFICANCE OF A TRIBAL CULTURAL RESOURCE, DEFINED IN PUBLIC RESOURCES CODE § 21074 AS EITHER A SITE, FEATURE, PLACE, CULTURAL LANDSCAPE THAT IS GEOGRAPHICALLY DEFINED IN TERMS OF THE SIZE AND SCOPE OF THE LANDSCAPE, SACRED PLACE, OR OBJECT WITH CULTURAL VALUE TO A CALIFORNIA NATIVE AMERICAN TRIBE, AND THAT IS: (I) LISTED OR ELIGIBLE FOR LISTING IN THE CALIFORNIA REGISTER OF HISTORICAL RESOURCES, OR IN A LOCAL REGISTER OF HISTORICAL RESOURCES AS DEFINED IN PUBLIC RESOURCES CODE SECTION 5020.1(K).

Specific Plan Area

Less than Significant with Mitigation Incorporated. AB 52 and SB 18 require meaningful consultation between lead agencies and California Native American tribes regarding potential impacts on tribal cultural resources. Tribal cultural resources are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either eligible or listed in the California Register of Historical Resources or local register of historical resources (PRC Section 21074). On November 9, 2023, a Sacred Lands File search and a list of Native American tribes who may have knowledge of cultural resources in the Project area was requested by BFSA from the NAHC. On December 26, 2023, the NAHC responded with a list of Native American tribes and that the Sacred Lands File search yielded positive results for known tribal cultural resources or sacred lands within a 1-mile radius of the Specific Plan Area. To identify if any known tribal cultural resources are potentially located within the Specific Plan Area, the City sent notices on July 27, 2024 regarding the Project to the Native American tribes provided by the NAHC.

In compliance with AB 52 and SB 18, the City of Perris sent notices regarding the Project on July 27, 2024 to the following California Native American tribes that may have knowledge regarding tribal cultural resources in the Project vicinity:

- Soboba Band of Luiseño Indians
- Agua Caliente Band of Cahuilla Indians
- Morongo Band of Mission Indians
- Pechanga Band of Indians
- Rincon Band of Luiseño Indians

A response was received from the Agua Caliente Band of Cahuilla Indians on August 20, 2024, requesting more information and applicable documents related to the Project as well as consultation for the Project. Another response was received from the Rincon Band of Luiseño Indians on August 20, 2024. On October 10, 2024, the Pechanga Band of Indians also requested consultation on the Project. The Tribes stated that the Specific Plan Area is potentially sensitive for buried cultural resources and requested Tribal Monitors to be present onsite during all ground disturbing activities. During the course of the tribal consultation process, no Native American tribe provided the City with substantial evidence indicating that tribal cultural resources, as defined in Public Resources Code Section 21074, are present within the Specific Plan Area or have been found previously on the Specific Plan Area. However, due to the Specific Plan Area's location in an area where Native American have been discovered, there is the possibility that archaeological resources, including tribal cultural resources, could be encountered during ground disturbing construction activities. As such, Mitigation Measures CUL-1 and CUL-2 are included to require monitoring assistance by one of the consulting Tribes and measures for the inadvertent discovery of cultural resources, including human remains. With implementation of General Plan policies and Mitigation Measures CUL-1 and CUL-2, potential impacts to tribal cultural resources would be less than significant.

IMPACT TCR-2: THE PROJECT WOULD NOT CAUSE A SUBSTANTIAL ADVERSE CHANGE IN THE SIGNIFICANCE OF A TRIBAL CULTURAL RESOURCE, DEFINED IN PUBLIC RESOURCES CODE § 21074 AS EITHER A SITE, FEATURE, PLACE, CULTURAL LANDSCAPE THAT IS GEOGRAPHICALLY DEFINED IN TERMS OF THE SIZE AND SCOPE OF THE LANDSCAPE, SACRED PLACE, OR OBJECT WITH CULTURAL VALUE TO A CALIFORNIA NATIVE AMERICAN TRIBE, AND THAT IS A RESOURCE DETERMINED BY THE LEAD AGENCY, IN ITS DISCRETION AND SUPPORTED BY SUBSTANTIAL EVIDENCE, TO BE SIGNIFICANT PURSUANT TO CRITERIA SET FORTH IN SUBDIVISION (C) OF PUBLIC RESOURCES CODE SECTION 5024.1. IN APPLYING THE CRITERIA SET FORTH IN SUBDIVISION (C) OF PUBLIC RESOURCES CODE SECTION 5024.1, THE LEAD AGENCY SHALL CONSIDER THE SIGNIFICANCE OF THE RESOURCE TO A CALIFORNIA NATIVE AMERICAN TRIBE.

Less than Significant with Mitigation Incorporated. In accordance with Public Resource Code Section 5024.1(c), a resource is considered historically significant if it meets at least one of the following criteria:

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

As discussed previously and within the Cultural Resources Assessment included as EIR Appendix H, the Specific Plan Area contains no known resources significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. During consultation between the City and the Agua Caliente Band of Cahuilla Indians and the Rincon Band of Mission Indians, the Project was determined to result in less-than-significant impacts with implementation archaeological monitoring during ground-disturbing construction activities as mitigation. Mitigation Measures CUL-1 and CUL-2 are included requiring that an archaeological and Native American observer be present for all ground disturbing activities to monitor for any unexpected resources that may be unearthed during these activities. With implementation of Mitigation Measures CUL-1 and CUL-2, potential impacts to tribal cultural resources would be less than significant.

As discussed in Section 5.5, *Cultural Resources*, in the unlikely event that human remains are encountered during grading or soil disturbance activities, compliance with the established regulatory framework (i.e., California Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.98) would provide that any potential impacts to human remains and tribal cultural resources would be less than significant.

5.17.7 CUMULATIVE IMPACTS

The cumulative tribal cultural resource impact assessment considers the development of the Project in conjunction with other development projects, as listed in Section 5.0 of this EIR, in the context of the influence areas of the tribes in the Riverside County region. There is potential for tribal cultural resources to be uncovered during construction activities from the Project. Other development projects within the region would have a similar potential to uncover tribal cultural resources. Cumulative impacts would be reduced by each development project's compliance with applicable regulations, consultations required by SB 18 and/or AB 52, and project-specific mitigation. Project implementation of Mitigation Measures CUL-1 and CUL-2 would reduce potential project-level impacts to less than significant, and the Project's contribution for cumulatively

significant impacts on inadvertent discoveries on tribal cultural resources would also be reduced to a less than significant level.

5.17.8 EXISTING REGULATIONS

- California Government Code Sections 5097.9-5097.99
- California Health and Safety Code Section 7050.5

5.17.9 PROJECT DESIGN FEATURES

None.

5.17.10 LEVEL OF SIGNIFICANCE BEFORE MITIGATION

Without mitigation the following impacts would be **potentially significant**:

- Impact TCR-1: Earth-disturbing activities during construction may inadvertently uncover tribal cultural resources.
- Impact TCR-2: Inadvertent discovery of subsurface artifacts may be of Native American heritage and be potentially significant.

5.17.11 MITIGATION MEASURES

Mitigation Measure CUL-1: As listed previously in Section 5.5, *Cultural Resources*.

Mitigation Measure CUL-2: As listed previously in Section 5.5, *Cultural Resources*.

5.17.12 LEVEL OF SIGNIFICANCE AFTER MITIGATION

Mitigation Measures CUL-1 and CUL-2, in addition to existing regulatory programs and requirements described in this section and Section 5.5, *Cultural Resources*, would reduce potential impacts associated with tribal cultural resources as discussed under Impacts TCR-1 and TCR-2 to a less than significant level. Therefore, no significant and unavoidable adverse impacts related to tribal cultural resources would occur.

5.17.13 REFERENCES

Brian F. Smith and Associates, Inc. (July 2024). *Phase I Cultural Resources Survey for the Harvest Landing Retail Center & Business Park Project. (Appendix H)*

City of Perris. (April 2005a). *City of Perris General Plan 2030*. Retrieved July 28, 2023, from <https://www.cityofperris.org/departments/development-services/general-plan>.

City of Perris. (April 2005b). *Environmental Impact Report, City of Perris General Plan 2030*. Retrieved July 28, 2023, from <https://www.cityofperris.org/home/showpublisheddocument/451/637203139698630000>.