

APPENDIX D

CULTURAL RESOURCES

NATIVE AMERICAN HERITAGE COMMISSION

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January 9, 2016

Rosalinh Ung
 City of Newport Beach
 100 Civic Center Drive
 Newport Beach, CA 92660

sent via e-mail:
rung@newportbeachca.gov

RE: SCH# 2017011002; Koll Center Residences (PA2015-024) Project, Notice of Preparation for Draft Environmental Impact Report, Orange County, California

Dear Ms. Ung:

The Native American Heritage Commission has received the Notice of Preparation (NOP) for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.), specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b) (CEQA Guidelines Section 15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared. (Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1) (CEQA Guidelines § 15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a **separate category of cultural resources**, "tribal cultural resources" (Pub. Resources Code § 21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment (Pub. Resources Code § 21084.2). Please reference California Natural Resources Agency (2016) "Final Text for tribal cultural resources update to Appendix G: Environmental Checklist Form," <http://resources.ca.gov/ceqa/docs/ab52/Clean-final-AB-52-App-G-text-Submitted.pdf>. Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code § 21084.3 (a)). **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. § 800 et seq.) may also apply.

The NAHC recommends **lead agencies consult with all California Native American tribes** that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments. **Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. **Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a **lead agency** shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code § 21080.3.1 (d)).

- d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code § 21073).
2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A **lead agency** shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code § 21080.3.1, subs. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or environmental impact report. (Pub. Resources Code § 21080.3.1(b)).
- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18). (Pub. Resources Code § 21080.3.1 (b)).
3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects. (Pub. Resources Code § 21080.3.2 (a)).
4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.
- d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code § 21080.3.2 (a)).
5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code § 21082.3 (c)(1)).
6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code § 21082.3 (b)).
7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code § 21080.3.2 (b)).
8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code § 21082.3 (a)).
9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code section 21084.3 (b). (Pub. Resources Code § 21082.3 (e)).
10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

- a. Avoidance and preservation of the resources in place, including, but not limited to:
 - i. Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i. Protecting the cultural character and integrity of the resource.
 - ii. Protecting the traditional use of the resource.
 - iii. Protecting the confidentiality of the resource.
- c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- d. Protecting the resource. (Pub. Resource Code § 21084.3 (b)).
- e. Please note that a federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code § 815.3 (c)).
- f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code § 5097.991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An environmental impact report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
 - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code § 21082.3 (d)). *This process should be documented in the Cultural Resources section of your environmental document.*

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires **local governments** to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code § 65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code § 65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code section 65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction. (Gov. Code § 65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason,

we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have been already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.
3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burials associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

Please contact me if you need any additional information at gayle.totton@nahc.ca.gov.

Sincerely,



Gayle Totton, M.A., PhD.
Associate Governmental Program Analyst

cc: State Clearinghouse



December 14, 2016

Andrew Salas, Chairman
Gabrieleño Band of Mission Indians
Kizh Nation
P. O. Box 393
Covina, CA 91723

Subject: Formal Notification of Consultation Opportunity Pursuant to California Public Resources Code Section 21080.3.1(d) for the Koll Center Residences Project, Newport Beach, CA

Dear Mr. Salas:

Pursuant to California Public Resources Code (PRC) Section 21080.3.1(b), the Gabrieleño Band of Mission Indians – Kizh Nation has submitted a request for notification of preparation of an environmental impact report (EIR), negative declaration (ND), or mitigated negative declaration (MND) for projects that are within the geographic area traditionally and culturally affiliated with this tribe. The City of Newport Beach is, therefore, providing notification to you of the preparation of an EIR for the proposed Koll Center Residences Project.

The project site is located in the Koll Center Office Park, at 4400 Von Karman Avenue (Assessor Parcel Numbers [APN] 445-131-04, 29, 30) in the City of Newport Beach, Orange County, California. The site is approximately 12.56 acres and is currently developed with surface parking lots and common landscape areas. The irregularly-shaped site is generally bordered by Birch Street to the northeast, Von Karman Avenue to the west, and existing office uses and associated surface parking lots and garages to the east and south. The project site has a General Plan land use designation of Mixed Use Horizontal (MU-H2) and a zoning designation of Koll Center Newport Planned Community Development Plan (PC-15 Koll Center).

The proposed mixed-use infill development includes 260 residential condominiums, 3,000 square feet (sf) of ground-floor retail uses in the residential towers, a 1-acre public park, a parking garage, and the reconfiguration of existing surface parking areas. To allow for the construction of the proposed project, existing surface parking areas and common landscape areas would be demolished. The three, two- to four-story office buildings located within the boundaries of the project site are not a part of the proposed project. The proposed residential units would be in three, 13-story towers. The three buildings would each be 150 feet in height over 2 levels of above-grade parking and 2 to 3 levels of below-grade parking. A one-acre public park would be located east and west of one of the entrances to the project site from Birch Street.

Parking displaced by project construction activities and by the proposed development would be provided in a new parking structure to be located southeast of the 5000 Birch Street office towers' parking structure, as well as through the reconfiguration of surface parking areas within the boundaries of the project site.

The following City of Newport Beach discretionary actions are required to implement the proposed project:

- **Environmental Impact Report:** Certification of the Koll Center Residences Final EIR.
- **Planned Community Development Standards Text Amendment:** An amendment to the Koll Center Newport Planned Community Development Plan (PC-15 Koll Center) to allow for residential mixed uses.
- **Development Agreement:** A development agreement between the applicant and the City describing development rights and public benefits for the residential development pursuant to Newport Municipal Code Section 15.45.020.A.2.c (Development Agreements).
- **Traffic Study:** A traffic study pursuant to Municipal Code Chapter 15.40 (Traffic Phasing Ordinance).
- **Site Development Review:** Site development must be in accordance with applicable Planned Community and Municipal Code development standards and regulations pursuant to Newport Municipal Code Section 20.52.80 (Site Development Reviews).
- **Tentative Tract Map:** For condominium purposes including five numbered lots for development and seven lettered lots for the park, parking, and roadways.
- **Tentative Parcel Map:** For finance and conveyance purposes.
- **Transfer of Development Rights:** Transfer of 3,019 sf of unbuilt office reallocated from Koll Center Site A to Site B

Pursuant to PRC Section 21080.3.1 (b), you have 30-days from the receipt of this letter, which has been sent via certified U.S. Mail with return receipt requested, to request consultation, in writing, with the City of Newport Beach. Please send your request to:

Rosalinh Ung, Associate Planner
City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, California 92660

If you have any questions prior to submitting a written request for consultation, please contact Rosalinh Ung at (949) 644-3208 or by e-mail at RUng@newportbeachca.gov. If the City does not receive such a request within the specified time period, we will conclude the consultation period finding that consultation with the City was not requested.

Sincerely,



Rosalinh Ung
Associate Planner

Attachment: Project Location Maps and Site Plan

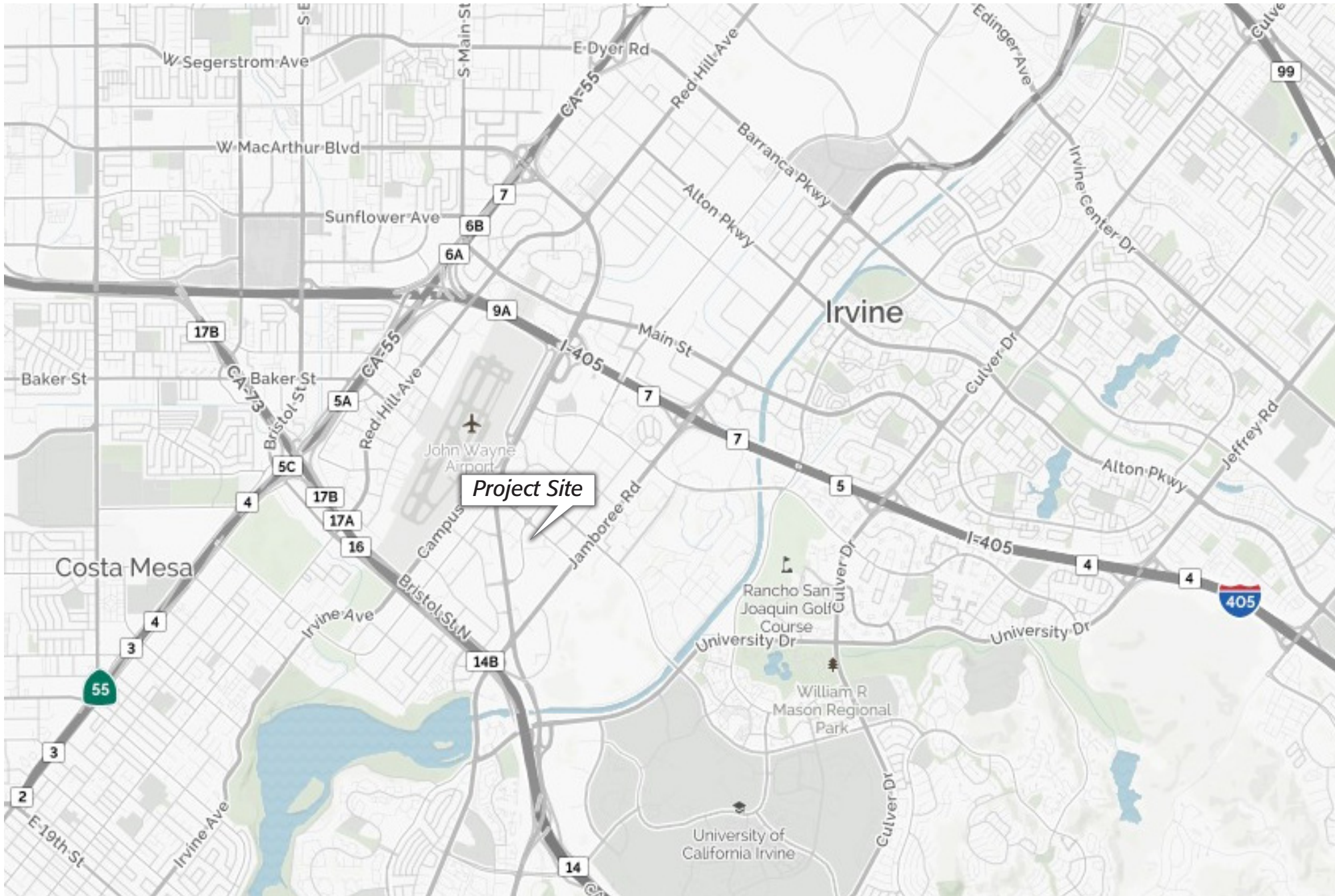


Figure 1: Regional Location



Figure 2: Project Vicinity



GABRIELEÑO BAND OF MISSION INDIANS - KIZH NATION

Historically known as The San Gabriel Band of Mission Indians
recognized by the State of California as the aboriginal tribe of the Los Angeles basin

Rosalinh Ung
Associate Planner

RE: AB52 consultation response for 4400 Von Karman Ave Newport Beach

Dear Rosalinh,

Jan 18, 2016

Please find this letter in response to your request for consultation dated Jan 4, 2016. I have reviewed the project site and do have concerns for cultural resources. Your project lies in an area where the Ancestral territories of the Kizh (Kitch) Gabrieleño's villages adjoined and overlapped with each other, at least during the Late Prehistoric and Protohistoric Periods. The homeland of the Kizh Gabrieleño was probably the most influential Native American group in aboriginal southern California (Bean and Smith 1978a:538), was centered in the Los Angeles Basin, and reached as far east as the San Bernardino-Riverside area. The homeland of our neighbors the Serranos was primarily the San Bernardino Mountains, including the slopes and lowlands on the north and south flanks. Whatever the linguistic affiliation, Native Americans in and around the project area exhibited similar organization and resource procurement strategies. Villages were based on clan or lineage groups. Their home/ base sites are marked by midden deposits often with bedrock mortars. During their seasonal rounds to exploit plant resources, small groups would migrate within their traditional territory in search of specific plants and animals. Their gathering strategies of ten left behind signs of special use sites, usually grinding slicks on bedrock boulders, at the locations of the resources.

Due to the project location and the high sensitivity of the area location, we would like to request one of our certified Native American Monitor to be on site during any and all ground disturbances (including but not limited to pavement removal, post holing, auguring, boring, grading, excavation and trenching) to protect any cultural resources which may be effected during construction or development. In all cases, when the Native American Heritage Commission states there are "no records of sacred sites in the project area" the NAHC will always refer lead agencies to the respective Native American Tribe because the NAHC is only aware of general information and are not the experts on each California Tribe. Our Elder Committee & Tribal Historians are the experts for our Tribe and are able to provide a more complete history (both written and oral) regarding the location of historic villages, trade routes, cemeteries and sacred/religious sites in the project area. While the property may be located in an area that has been previously developed, numerous examples can be shared to show that there still is a possibility that unknown, yet significant, cultural resources will be encountered during ground disturbance activities. Please note, if they haven't been listed with the NAHC, it doesn't mean that they aren't there. Not everyone reports what they know.

The recent implementation of AB52 dictates that lead agencies consult with Native American Tribes who can prove and document traditional and cultural affiliation with the area of said project in order to protect cultural resources. However, our tribe is connected Ancestrally to this project location area, what does Ancestrally or Ancestral mean? The people who were in your family in past times, Of, belonging to, inherited from, or denoting an ancestor or ancestors <http://www.thefreedictionary.com/ancestral>. Our priorities are to avoid and protect without delay or conflicts – to consult with you to avoid unnecessary destruction of cultural and biological resources, but also to protect what resources still exist at the project site for the benefit and education of future generations. At your convenience we can Consultation either by Phone or Face to face. Thank you

CC: NAHC

With respect,

Andrew Salas, Chairman
cell (626)926-4131

Andrew Salas, Chairman
Albert Perez, treasurer I

Nadine Salas, Vice-Chairman
Martha Gonzalez Lemos, treasurer II

Christina Swindall Martinez, secretary
Richard Gradias, Chairman of the council of Elders

PO Box 393 Covina, CA 91723

www.gabrieleñoindians@yahoo.com

gabrieleñoindians@yahoo.com



December 14, 2016

Joyce Stanfield Perry
Juaneño Band of Mission Indians
Acjajcemen Nation
4955 Paseo Segovia
Irvine, CA 92603

Subject: Formal Notification of Consultation Opportunity Pursuant to California Public Resources Code Section 21080.3.1(d) for the Koll Center Residences Project, Newport Beach, CA

Dear Ms. Perry:

Pursuant to California Public Resources Code (PRC) Section 21080.3.1(b), the Juaneño Band of Mission Indians – Acjajcemen Nation has submitted a request for notification of preparation of an environmental impact report (EIR), negative declaration (ND), or mitigated negative declaration (MND) for projects that are within the geographic area traditionally and culturally affiliated with this tribe. The City of Newport Beach is, therefore, providing notification to you of the preparation of an EIR for the proposed Koll Center Residences Project.

The project site is located in the Koll Center Office Park, at 4400 Von Karman Avenue (Assessor Parcel Numbers [APN] 445-131-04, 29 & 30) in the City of Newport Beach, Orange County, California. The site is approximately 12.56 acres and is currently developed with surface parking lots and common landscape areas. The irregularly-shaped site is generally bordered by Birch Street to the northeast, Von Karman Avenue to the west, and existing office uses and associated surface parking lots and garages to the east and south. The project site has a General Plan land use designation of Mixed Use Horizontal (MU-H2) and a zoning designation of Koll Center Newport Planned Community Development Plan (PC-15 Koll Center).

The proposed mixed-use infill development includes 260 residential condominiums, 3,000 square feet (sf) of ground-floor retail uses in the residential towers, a 1-acre public park, a parking garage, and the reconfiguration of existing surface parking areas. To allow for the construction of the proposed project, existing surface parking areas and common landscape areas would be demolished. The three, two- to four-story office buildings located within the boundaries of the project site are not a part of the proposed project. The proposed residential units would be in three, 13-story towers. The three buildings would each be 150 feet in height over 2 levels of above-grade parking and 2 to 3 levels of below-grade parking. A one-acre public park would be located adjacent to the entrances to the project site from Birch Street.

Parking displaced by project construction activities and by the proposed development would be provided in a new parking structure to be located southeast of the 5000 Birch Street office towers' parking structure, as well as through the reconfiguration of surface parking areas within the boundaries of the project site.

The following City of Newport Beach discretionary actions are required to implement the proposed project:

- **Environmental Impact Report:** Certification of the Koll Center Residences Final EIR.
- **Planned Community Development Standards Text Amendment:** An amendment to the Koll Center Newport Planned Community Development Plan (PC-15 Koll Center) to allow for residential mixed uses.
- **Development Agreement:** A development agreement between the applicant and the City describing development rights and public benefits for the residential development pursuant to Newport Municipal Code Section 15.45.020.A.2.c (Development Agreements).
- **Traffic Study:** A traffic study pursuant to Municipal Code Chapter 15.40 (Traffic Phasing Ordinance).
- **Site Development Review:** Site development must be in accordance with applicable Planned Community and Municipal Code development standards and regulations pursuant to Newport Municipal Code Section 20.52.80 (Site Development Reviews).
- **Tentative Tract Map:** For condominium purposes including five numbered lots for development and seven lettered lots for the park, parking, and private streets.
- **Tentative Parcel Map:** For finance and conveyance purposes.
- **Transfer of Development Rights:** Transfer of 3,019 sf of un-built office/retail from Koll Center Site A to Site B

Pursuant to PRC Section 21080.3.1 (b), you have 30-days from the receipt of this letter, which has been sent via certified U.S. Mail with return receipt requested, to request consultation, in writing, with the City of Newport Beach. Please send your request to:

Rosalinh Ung, Associate Planner
City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, California 92660

If you have any questions prior to submitting a written request for consultation, please contact Rosalinh Ung at (949) 644-3208 or by e-mail at RUng@newportbeachca.gov. If the City does not receive such a request within the specified time period, we will conclude the consultation period finding that consultation with the City was not requested.

Sincerely,



Rosalinh Ung
Associate Planner

Attachment: Project Location Maps and Site Plan

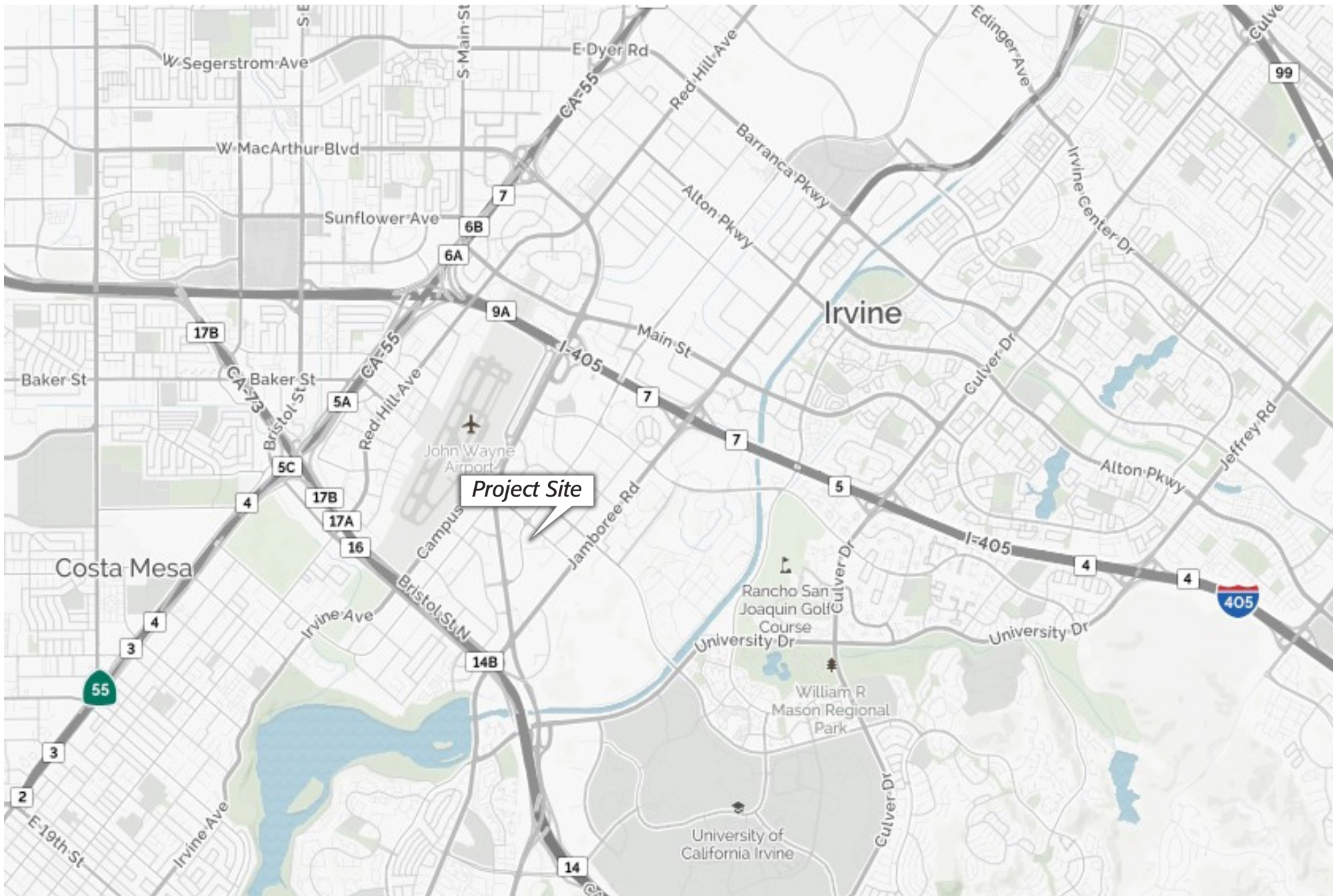


Figure 1: Regional Location



Figure 2: Project Vicinity

South Central Coastal Information Center

California State University, Fullerton
Department of Anthropology MH-426
800 North State College Boulevard
Fullerton, CA 92834-6846
657.278.5395 / FAX 657.278.5542

sccic@fullerton.edu

California Historical Resources Information System
Orange, Los Angeles, and Ventura Counties

2/15/2017

SCCIC File #: 17295.3310

Ashley Brodtkin
Kimley-Horn and Associates, Inc.
765 The City Drive, Suite 200
Orange, CA 92868

Re: Record Search Results for the Koll Center Residences (PA2015-024)

The South Central Coastal Information Center received your records search request for the project area referenced above, located on the Tustin, CA USGS 7.5' quadrangle. The following summary reflects the results of the records search for the project area and a ½-mile radius. The search includes a review of all recorded archaeological and built-environment resources as well as a review of cultural resource reports on file. In addition, the California Points of Historical Interest (SPHI), the California Historical Landmarks (SHL), the California Register of Historical Resources (CAL REG), the National Register of Historic Places (NRHP), and the California State Historic Properties Directory (HPD) listings were reviewed for the above referenced project site. Due to the sensitive nature of cultural resources, archaeological site locations are not released.

RECORDS SEARCH RESULTS SUMMARY

Archaeological Resources	Within project area: 0 Within project radius: 3
Built-Environment Resources	Within project area: 0 Within project radius: 0
Reports and Studies	Within project area: 3 Within project radius: 51
OHP Historic Properties Directory (HPD)	Within project area: 0 Within ¼-mile radius: 0
California Points of Historical Interest (SPHI)	Within project area: 0 Within ¼-mile radius: 0
California Historical Landmarks (SHL)	Within project area: 0 Within ¼-mile radius: 0
California Register of Historical Resources (CAL REG)	Within project area: 0 Within ¼-mile radius: 0
National Register of Historic Places (NRHP)	Within project area: 0 Within ¼-mile radius: 0

Archaeological Determinations of Eligibility (ADOE):	Within project area: 0 Within project radius: 0
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HISTORIC MAP REVIEW – Santa Ana, CA (1896, 1901) 15’ USGS historic maps indicated that in 1896, there was no visible development in the project area. There is one paved road in the northern portion of the project radius and marshes nearby to the east. In 1901, the previously mentioned features remain with an additional road that ran in the southeastern portion of the search radius.

RECOMMENDATIONS

The project area is potentially sensitive for archaeological resources. An archaeological consultant should be retained to monitor any previously undisturbed soil. Additionally, any historic structures (45 years and older) should be identified, recorded, and evaluated for local, state, or national significance prior to the approval of project plans as may be required by the lead agency. It is also recommended that the Native American Heritage Commission should be consulted to identify if any additional traditional cultural properties or other sacred sites are known to be in the area.

For your convenience, you may find a professional consultant* at www.chrisinfo.org. Any resulting reports by the qualified consultant should be submitted to the South Central Coastal Information Center as soon as possible.

*The SCCIC does not endorse any particular consultant and makes no claims about the qualifications of any person listed. Each consultant on this list self-reports that they meet current professional standards.

If you have any questions regarding the results presented herein, please contact the office at 657.278.5395 Monday through Thursday 9:00 am to 3:30 pm.

Should you require any additional information for the above referenced project, reference the SCCIC number listed above when making inquiries. Requests made after initial invoicing will result in the preparation of a separate invoice.

Thank you for using the [California Historical Resources Information System](#),

Isabela Kott
Staff Researcher/GIS Technician

Due to processing delays and other factors, not all of the historical resource reports and resource records that have been submitted to the Office of Historic Preservation are available via this records search. Additional information may be available through the federal, state, and local agencies that produced or paid for historical resource management work in the search area. Additionally, Native American tribes have historical resource information not in the California Historical Resources Information System (CHRIS) Inventory, and you should contact the California Native American Heritage Commission for information on local/regional tribal contacts.

The California Office of Historic Preservation (OHP) contracts with the California Historical Resources Information System's (CHRIS) regional Information Centers (ICs) to maintain information in the CHRIS inventory and make it available to local, state, and federal agencies, cultural resource professionals, Native American tribes, researchers, and the public. Recommendations made by IC coordinators or their staff regarding the interpretation and application of this information are advisory only. Such recommendations do not necessarily represent the evaluation or opinion of the State Historic Preservation Officer in carrying out the OHP's regulatory authority under federal and state law.

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Los Angeles, CA 90007

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Vertebrate Paleontology Section
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e-mail: smcleod@nhm.org

7 February 2017

Kimley-Horn and Associates, Inc.
765 The City Drive, Suite 200
Orange, CA 92868

Attn: Ashley Brodtkin

re: Paleontological resources for the proposed The Koll Center Residences (PA2015-024)
Project, Project # 13-651, in the City of Newport Beach, Orange County, project
area

Dear Ashley:

I have conducted a thorough check of our paleontology collection records for the locality and specimen data for the proposed The Koll Center Residences (PA2015-024) Project, Project # 13-651, in the City of Newport Beach, Orange County, project area as outlined on the portion of the Tustin USGS topographic quadrangle map that you sent to me via e-mail on 1 February 2017. We do not have any vertebrate fossil localities that lie directly within the proposed project area boundaries, but we do have localities nearby from the same sedimentary deposits that probably occur subsurface in the proposed project area.

According to the geologic mapping, the entire proposed project area has surface exposures of marine younger Quaternary Terrace deposits, although our vertebrate fossil localities in this area almost always contain terrestrial fossil vertebrates. These deposits typically do not contain significant vertebrate fossils in the uppermost layers, but they are usually underlain by older Quaternary deposits that frequently do contain significant vertebrate fossils. Our closest vertebrate fossil locality from these deposits is LACM 4219, west-southwest of the proposed project area in a roadcut for the Newport Freeway near Santa Isabel Avenue, that produced fossil sea turtle, Cheloniidae, and camel, Camelidae, bones in coarse poorly sorted friable sands about 30 feet below the grade of Newport Boulevard. Further to the southwest of

the proposed project area, near the intersection of 19th Street and Anaheim Avenue, our locality LACM 3267 produced a fossil specimen of undetermined elephant, Proboscidea. Just north or west of the proposed project area, along Adams Avenue near the top of the mesa bluffs east of the Santa Ana River, our locality LACM 1339 produced fossil specimens of mammoth, *Mammuthus*, and camel, Camelidae, bones in sand approximately 15 feet below the top of the mesa that is overlain by shell bearing silts and sands. We further have a large number of localities from the marine and terrestrial Late Pleistocene terraces deposits on the east side of Upper Newport Bay. Those localities have produced an extensive composite fauna.

Surface grading or very shallow excavations in the younger Quaternary deposits exposed in the proposed project area probably will not uncover significant vertebrate fossil remains. Deeper excavations that extend down into older Quaternary deposits, however, may well encounter significant fossil vertebrate specimens. Any substantial excavations in the proposed project area, therefore, should be monitored closely to quickly and professionally recover any fossil remains discovered while not impeding development. Also, sediment samples should be collected and processed to determine the small fossil potential in the proposed project area. Any fossils recovered during mitigation should be deposited in an accredited and permanent scientific institution for the benefit of current and future generations.

This records search covers only the vertebrate paleontology records of the Natural History Museum of Los Angeles County. It is not intended to be a thorough paleontological survey of the proposed project area covering other institutional records, a literature survey, or any potential on-site survey.

Sincerely,

A handwritten signature in cursive script that reads "Samuel A. McLeod".

Samuel A. McLeod, Ph.D.
Vertebrate Paleontology

enclosure: invoice