

ARCHAEOLOGICAL ASSESSMENT REPORT

FOR THE NEWPORT BEACH CITY HALL
AND PARK DEVELOPMENT PLAN PROJECT

CITY OF NEWPORT BEACH, ORANGE COUNTY, CALIFORNIA

Submitted to:

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LSA Project No. CNB0901

National Archaeological Database (NADB)

USGS Topographic Quadrangle: Laguna Beach, California 7.5

Acreage: ~20 acres

Key Words: Orange County, Newport Beach, Survey, Sites CA-ORA-1461 and CA-ORA-167/1117

LSA

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1.0 MANAGEMENT SUMMARY/ABSTRACT

LSA Associates, Inc. (LSA) has completed an archaeological assessment for the City Hall and Park Development Plan project for the City of Newport Beach (City), Orange County (County), California. LSA completed a records search through the South Central Coastal Information Center (SCCIC) of the California Historical Resources Information System (CHRIS) located at California State University, Fullerton (February 10, 2009); conducted a search of the Sacred Lands File (SLF) through the Native American Heritage Commission (NAHC; February 9, 2009); assisted the City with Native American consultation (February 16–March 27, 2009); and completed an intensive archaeological survey (March 31, 2009). This report has been prepared to present the results of this assessment.

Based on the results of the records search, it is known that two prehistoric archaeological sites are present within the project area: CA-ORA-167/1117 and CA-ORA-1461. Per the California Environmental Quality Act (CEQA), both sites were previously tested, evaluated for eligibility for listing in the California Register of Historical Resources (California Register), and determined not eligible for listing. LSA conducted an intensive on-site pedestrian survey of the sites, as well as of the remainder of the project area. No additional sites were identified. Department of Parks and Recreation (DPR) forms were updated for the two sites (Appendix A).

Site CA-ORA-1461 produced one Native American human burial during the MacArthur Boulevard Widening project in 1996. The burial was removed and reburied off site. The project site is considered sensitive for buried cultural resources. Proposed project plans have been reviewed and indicate that while no buildings would be constructed on the existing archaeological sites, pedestrian paths and picnic areas are proposed in highly sensitive areas. To ensure that any buried cultural remains that could be impacted by grading for the pedestrian path are properly protected and managed, it is recommended that these sites be capped and grading and excavation of these areas be avoided. In addition, (1) a qualified archaeological monitor and Native American monitor should be on site during project-related ground-disturbing activities until marine terrace deposits are encountered and (2) at the conclusion of monitoring, a monitoring report consistent with the guidelines of the Office of Historic Preservation's *Archaeological Resource Management Reports (ARMR): Recommended Contents & Format* should be completed and submitted to the City and the SCCIC. Any changes to plans shall be reviewed to ensure excavation would not impact the sites.

In addition, if human remains are encountered, State Health and Safety Code (HSC) Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code (PRC) Section 5097.98.

A copy of this report is on file with the City, the SCCIC, and LSA. All field notes are on file at LSA.

2.0 INTRODUCTION

This report has been completed per the guidelines established by the State Office of Historic Preservation and presented in ARMOR. As such, this report contains an introduction that includes the project description, the regulatory setting, previous studies, and project personnel; sections pertaining to the natural setting, the cultural setting, methods, reports of findings, discussion, recommendations, and references; and a confidential appendix containing DPR forms (Series 523).

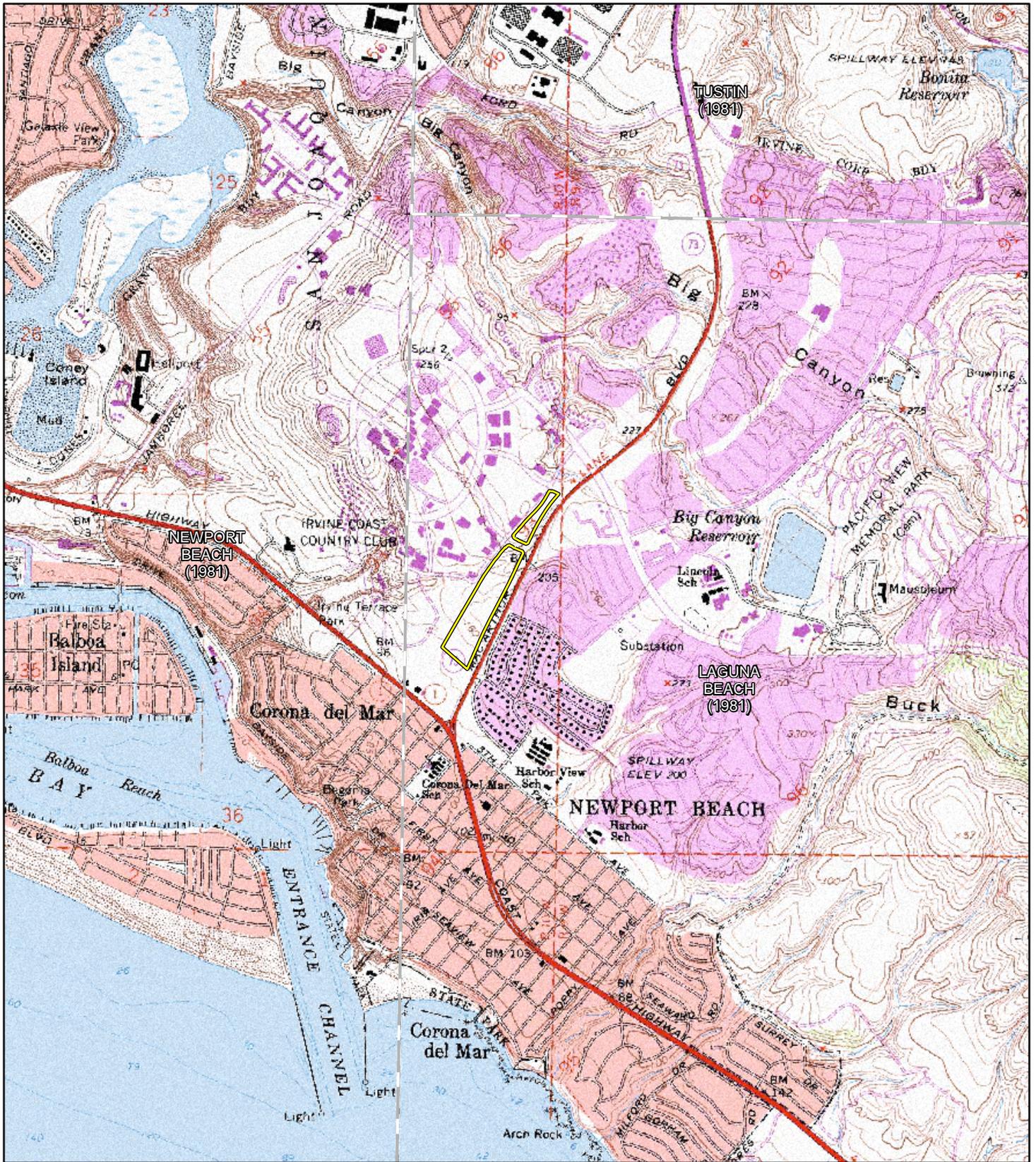
2.1 PROJECT DESCRIPTION

The proposed project site is located in the City between Avocado Avenue and MacArthur Boulevard. The proposed project site is composed of three parcels (referred to as the northern, central, and southern parcels). Altogether, the proposed project site is approximately 20 acres (ac). The northern parcel and the central parcel, both of which are currently vacant, are separated by San Miguel Drive. The southern parcel is occupied by the existing Newport Beach Public Library located at 1000 Avocado Avenue; the Library would remain after project implementation. The project area is depicted on the United States Geological Survey (USGS) *Laguna Beach, California* topographic quadrangle map in Irvine Ranch Section 93, Township 6 South, Range 10 West (Figure 1). It is at an elevation of 160 to 200 feet (ft) above mean sea level.

The proposed project would result in the relocation of City functions (except for Fire Station No. 2)¹ currently taking place at the existing City Hall located at 3300 Newport Boulevard to the proposed project site. The proposed project includes eight primary components, including: (1) construction and operation of an approximately 98,000-square-foot (sf) City Hall administration building, Community Room, and Council Chambers; (2) a 450-space parking structure; (3) an approximately 17,000 sf expansion of the Newport Beach Central Library (Library); (4) a dedicated 4,800 sf Emergency Operations Center (EOC); (5) a Civic Green; (6) construction of a 14.3-acre public park that includes a dog park, wetlands area, bridges over the wetlands, lookout points, and a pedestrian overcrossing over San Miguel Drive; (7) widening of San Miguel Drive; and (8) reuse of the existing City Hall structures located at 3300 Newport Boulevard with public facilities uses.

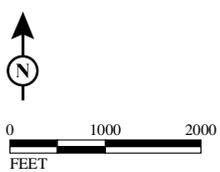
The conceptual site plan is shown in Figure 2. The proposed City Hall and parking structure would be located immediately north of the existing library. The proposed project would stretch from the northern boundary of the library structure to the northern end of the northern parcel, adjacent to the existing Orange County Transportation Authority (OCTA) facility. The park is proposed to include both natural and more formal park features. Within the wetlands area, invasive exotic planting would be removed and efforts would be made to improve water quality. A pedestrian bridge over San Miguel Drive is also proposed to link the central and northern parcels. A dog park is proposed to be located in the section of the park north of San Miguel Drive.

¹ Fire Station No. 2 serves a specific area of the Peninsula and Lido Isle and coincidentally is on the existing City Hall site.



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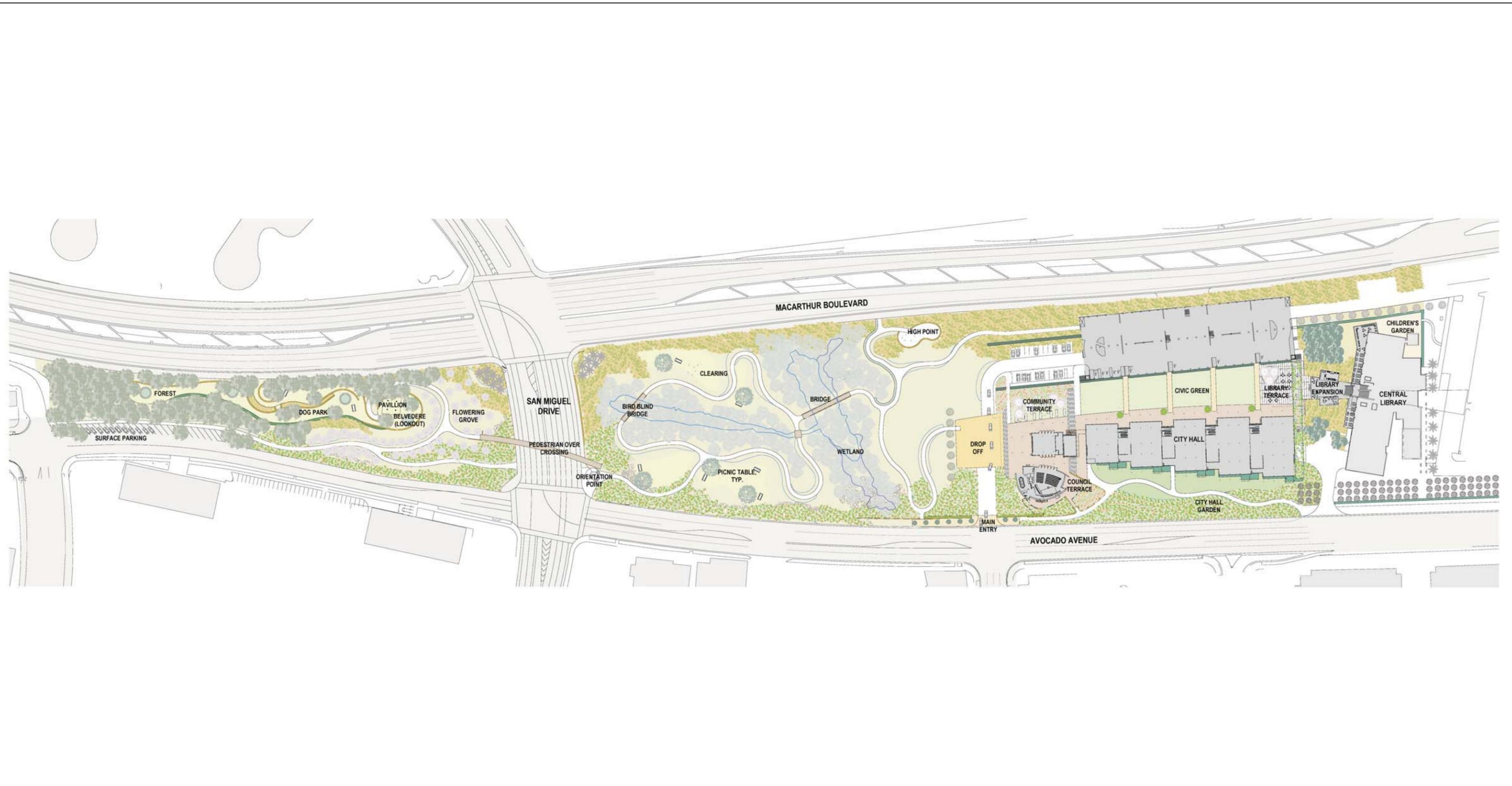
FIGURE 1



LEGEND
 Project Boundary

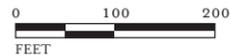
*Newport Beach City Hall
 and Park Development Plan Project*
 Project Location Map

SOURCE: USGS 7.5min. Quad. (Tustin (1981), Newport Beach (1981), Laguna Beach (1981)); City of Newport Beach (1/09)
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LSA

FIGURE 2



SOURCE: Bohlin Cywinski Jackson/PWP/ARUP

I:\CNB0901\G\Site Plan-Cultural.cdr (6/22/09)

Newport Beach City Hall and Park Development Plan

Site Plan

2.2 REGULATORY SETTING

Under contract to the City, LSA has completed an archaeological resources assessment for the City Hall and Park Development Plan Project. This assessment addresses the requirements of CEQA (as amended January 1, 2009), PRC Division 13 (Environmental Quality), Chapter 2.6 Section 21083.2 (Archaeological Resources) and Section 21084.1 (Historical Resources); and the Guidelines for CEQA (as amended October 21, 2008), California Code of Regulations (CCR) Title 14, Chapter 3, Article 5 Section 15064.5 (Determining the Significance of Impacts on Historical and Unique Archaeological Resources). This section describes the cultural resource requirements of CEQA, as well as the California HSC, the PRC, Senate Bill (SB) 18 (Burton), the California Register of Historical Places (California Register), the Historic and Natural Resources Elements of the City General Plan, and the City Council Policy Manual.

State of California

CEQA Requirements. CEQA defines a “historical resource” as a resource that meets one or more of the following criteria: (1) listed in, or determined eligible for listing in, the California Register of Historical Resources (California Register); (2) listed in a local register of historical resources as defined in PRC Section 5020.1(k); (3) identified as significant in a historical resource survey meeting the requirements of PRC Section 5024.1(g); or (4) determined to be a historical resource by a project’s Lead Agency (PRC Section 21084.1 and State CEQA Guidelines Section 15064.5(a)). A historical resource consists of:

“Any object, building, structure, site, area, place, record, or manuscript which a Lead Agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California... Generally, a resource shall be considered by the Lead Agency to be ‘historically significant’ if the resource meets the criteria for listing on the California Register of Historical Resources” (State CEQA Guidelines Section 15064.5(a)(3)).

In accordance with the State CEQA Guidelines Section 15064.5(b), a substantial adverse change in the significance of a historical resource is a significant effect on the environment.

CEQA requires a Lead Agency to determine whether an archaeological cultural resource meets the definition of a historical resource, a unique archaeological resource, or neither (State CEQA Guidelines Section 15064.5(c)). Prior to considering potential impacts, the Lead Agency must determine whether an archaeological cultural resource meets the definition of a historical resource in the State 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 State CEQA Guidelines Section 15126.4. If the archaeological cultural resource does not meet the definition of a historical resource, then the Lead Agency determines whether it meets the definition of a unique archaeological resource as defined in the State CEQA Guidelines Section 21083.2(g). In practice, however, most archaeological sites that meet the definition of a unique archaeological resource will also meet the definition of a historical resource. Should the archaeological cultural resource meet the definition of a unique archaeological resource, then it must be treated in accordance with the State CEQA Guidelines 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 (State CEQA Guidelines Section 15064.5(c)(4)).

California Health and Safety Code Section 7050.5

California HSC Section 7050.5 states that in the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the remains are discovered has determined whether or not the remains are subject to the coroner's authority. If the human remains are of Native American origin, the Coroner must notify the NAHC within 24 hours of this identification. The NAHC will identify a Native American most likely descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.

Public Resources Code Section 5097.5

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 lands under the jurisdiction of State or local authorities.

Senate Bill 18 Tribal Consultation

California Government Code Section 65352.3 (adopted pursuant to the requirements of SB 18) requires local governments to contact, refer plans to, and consult with tribal organizations prior to making a decision to adopt or amend a General or Specific Plan. The tribal organizations eligible to consult have traditional lands in a local government's jurisdiction and are identified, upon request, by the NAHC. As noted in the California Office of Planning and Research's *Tribal Consultation Guidelines* (2005), "The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage, for the purpose of protecting, or mitigating impacts to, cultural places."

California Register of Historical Resources (PRC Section 5020 et seq.) State law also protects cultural resources by requiring evaluations of the significance of prehistoric and historic resources in CEQA documents. A cultural resource is an important historical resource if it meets any of the criteria found in Section 15064.5(a) of the State CEQA Guidelines. These criteria are nearly identical to those for the National Register, which are listed above.

The State Historic Preservation Office (SHPO) maintains the California Register. Properties listed, or formally designated eligible for listing, on the National Register of Historic Places (National Register) are nominated to the California Register and then selected to be listed on the California Register, as are State Landmarks and Points of Interest.

City of Newport Beach

General Plan. The Historic Element in the City's General Plan addresses the protection and sustainability of the City's historic and paleontological resources. Goals and policies presented within the Historic Element are intended to recognize, maintain, and protect the community's unique historical, cultural, and archaeological sites and structures. Goal and policies related to cultural resources presented in the Historic Element include:

- **Goal HR 1:** Recognize and protect historically significant landmarks, sites, and structures.
- **Policy HR1.5, Historical Elements within New Projects:** Require that proposed development that is located on a historical site or structure incorporate a physical link to the past within the site or structural design, if preservation or adaptive reuse is not a feasible option. For example, incorporate historical photographs or artifacts within the proposed project or preserve the location and structures of existing pathways, gathering places, seating areas, rail lines, roadways, or viewing vantage points within the proposed site design. (Imp 29.2)
- **Goal HR 2:** Identification and protection of important archaeological and paleontological resources within the City.
- **Policy HR 2.1, New Development Activities:** Require that, in accordance with CEQA, new development protect and preserve paleontological and archaeological resources from destruction, and avoid and mitigate impacts to such resources. Through planning policies and permit conditions, ensure the preservation of significant archaeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA (Imp 11.1).
- **Policy HR 2.2, Grading and Excavation Activities:** Maintain sources of information regarding paleontological and archaeological sites and the names and addresses of responsible organizations and qualified individuals who can analyze, classify, record, and preserve paleontological or archaeological findings. Require a qualified paleontologist/archaeologist to monitor all grading and/or excavation where there is a potential to affect cultural, archaeological, or paleontological resources. If these resources are found, the applicant shall implement the recommendations of the paleontologist/archaeologist, subject to the approval of the City Planning Department (Imp 11.1).
- **HR 2.3, Cultural Organizations:** Notify cultural organizations, including Native American organizations, of proposed developments that have the potential to adversely impact cultural resources. Allow representatives of such groups to monitor grading and/or excavation of development sites. (Imp 11.1)
- **HR 2.4, Paleontological or Archaeological Materials:** Require new development to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach, or Orange County, whenever possible (Imp 11.1).

In addition, the City's Natural Resources Element also provides for the protection of cultural resources with the following Goal and Policies:

- **Goal NR 18:** Protection and preservation of important paleontological and archaeological resources.
- **Policy NR 18.1 New Development:** Require new development to protect and preserve paleontological and archaeological resources from destruction, and avoid and minimize impacts to such resources in accordance with the requirements of CEQA. Through planning policies and permit conditions, ensure the preservation of significant archaeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA (Imp 7.1).
- **Policy NR 18.2, Maintenance of Database Information:** Prepare and maintain sources of information regarding paleontological or archaeological sites and the names and addresses of responsible organizations and qualified individuals who can analyze, classify, record, and preserve paleontological and archaeological findings (Imp 10.1).
- **Policy NR 18.4, Donation of Materials:** Require new development, where on-site preservation and avoidance are not feasible, to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach or Orange County, whenever possible (Imp 11.1).

Potential impacts to archaeological resources were also addressed in the EIR certified by the City for its 2006 General Plan Update. The EIR states,

“The City of Newport Beach and its SOI have a long cultural history and is known to have been home to Native American groups prior to settlement by Euro-Americans. Archaeological materials associated with occupation of the Planning Area are known to exist and have the potential to provide important scientific information regarding history and prehistory. Ground-disturbing activities, particularly in areas that have not previously been developed with urban uses have the potential to damage or destroy historic or prehistoric archaeological resources that may be present on or below the ground surface. Such resources are generally considered to be historical resources, as defined in Section 15064.5(a)(3)(D) (“[h]as yielded, or may be likely to yield, information important in history or prehistory”). In addition to the status of archaeological resources as historical resources, a resource may also be a “unique archaeological resource,” as defined in Section 21083.2(g)(1)–(3) of CEQA. Further, archaeological resources are often of cultural or religious importance to Native American groups, particularly if the resource includes human and/or animal burials. Consequently, damage to or destruction of these resources could occur as a result of development under the proposed General Plan Update. The Banning Ranch site is currently developed with oil production uses and associated structures, including large storage tanks and may have a greater potential to contain undisturbed archaeological sites or sites of cultural significance. Vacant parcels located within the City could also contain these cultural resources.

However, policies within Goal HR 2 and NR 18 of the proposed General Plan Update would protect these resources. For example, Policy HR 2.1 and Policy NR 18.1 require that any new development protect and preserve archaeological resources from destruction, and that potential impacts to such resources be avoided and minimized through planning policies and permit conditions. Other policies under Goal HR 2 and Goal NR 18 ensure that information resources are maintained regarding these resources; grading and excavation activities where there is a potential to affect cultural or archaeological resources be monitored by a qualified archaeologist; cultural organizations, including Native American organizations, are notified of all developments that have the potential to adversely impact these resources; and that any new development donates scientifically valuable archaeological resources to a responsible public or private institution. The Newport Beach City Council has also established “Archaeological Guidelines (K-5)” to ensure the preservation of significant archeological resources and require that the impact caused by any development be mitigated with CEQA.

The Historical Resources Element of the proposed General Plan Update also contains policies that ensure the protection of archaeological resources. For example, policy HR 2.1 would require new development to protect and preserve paleontological and archaeological resources from destruction, and avoid and minimize impacts to such resources in accordance with the requirements of CEQA. Through planning policies and permit conditions, this policy would ensure the preservation of significant archeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA. Policy HR 2.2 would ensure that sources of information regarding paleontological and archeological sites and the names and addresses of responsible organizations and qualified individuals, who can analyze, classify, record, and preserve paleontological or archeological findings would continue to be maintained. A qualified paleontologist/archeologist would be required to monitor all grading and/or excavation where there is a potential to affect cultural, archeological or paleontological resources. If these resources are found, the applicant shall implement the recommendations of the paleontologist/archeologist, subject to the approval of the City Planning Department.

Consequently, implementation of the proposed General Plan Update policies would ensure that impacts to archaeological and Native American cultural resources would be less than significant, by requiring the scientific recovery and evaluation of any archaeological resources that could be encountered during construction of future development. This would ensure that important scientific information that could be provided by these resources regarding history or prehistory would not be lost.”

Cumulative Impacts

“Potential future development in the City of Newport Beach and the SOI could include excavation and grading that could potentially impact archaeological and paleontological resources and human remains. The cumulative effect of this future development is the continued loss of these resources. The potential loss of

paleontological and archaeological resources with this future development would contribute to the degradation of the historic fabric of the City of Newport Beach. However, policies under the proposed General Plan Update and assigned mitigation measures would be implemented as appropriate to reduce the effect of this development by ensuring the evaluation and – where appropriate – scientific recovery and study of any resources encountered. CEQA requirements for the protection of archaeological and paleontological resources and human remains are applicable to development in the City of Newport Beach. If subsurface cultural resources are protected as they are discovered – as is required by law – impacts to these resources would be less than significant. As indicated above, given the mitigation measures that would be imposed and enforced throughout construction, the contribution of potential impacts from the proposed General Plan Update to the cumulative destruction of subsurface cultural resources throughout Newport Beach would not be cumulatively considerable, and would, therefore, be less than significant.”

Newport Beach City Council Policy Manual. The Newport Beach City Council Manual identifies policies applicable to cultural resources. These policies are discussed below.

Places of Historical and Architectural Significance (K-2). This regulation establishes City Council authority to designate any building, object, structure, monument, or collection having importance to the history or architecture of the City of Newport Beach and provides procedures for listing. Accordingly, the City Clerk is required to maintain the City of Newport Beach Register of Historical Property. The City Council may at any time repeal, revise, or modify any such designation upon reconsideration of the historical or architectural importance of the structure.

Archaeological Guidelines (K-5). The policies set forth within this guideline are used to guide the development or redevelopment of land within the City. The City is required to, through its planning policies and permit conditions, ensure the preservation of significant archaeological resources and require that the impact caused by any development be mitigated in accordance with CEQA. The City is to prepare and maintain sources of information regarding archaeological sites and the names and addresses of responsible organizations and qualified individuals who can analyze, classify, record, and preserve archaeological findings

If determined necessary by the Planning Director, it is the responsibility of the developer to examine the site to determine the existence and extent of archaeological resources. Qualified observers are to prepare and submit a written report describing the findings and making recommendations for further action, which may include monitoring. Based on the report and recommendations, the City is required to ensure that the findings or sites are recorded, preserved, and protected.

Previous Studies

Two previous studies include the current project area. Strudwick et al. (1996) discusses the test excavations for CA-ORA-167/1117 and CA-ORA-1461, which were completed prior to and in conjunction with the MacArthur Boulevard Widening project. Both sites were determined not eligible for listing in the California Register. McLean (1997) discusses the results of monitoring during the MacArthur Boulevard Widening project. One prehistoric burial was encountered in site CA-ORA-1461 during monitoring (Strudwick 1996). It was removed and reburied off site. Due to the sensitive nature of a burial, it was deemed prudent to resurvey the project area to determine the current condition of the site.

Project Personnel

The cultural resources assessment was completed by Deborah McLean. She is a Registered Professional Archaeologist (RPA) and an Orange County certified archaeologist.

3.0 NATURAL SETTING

The natural setting of the project vicinity is presented based on the underlying theoretical assumption that humans and human societies are in continual interaction with the physical environment. Being an integral and major part of the ecological system, humans respond to the limits imposed by the environment by technological and behavioral adaptation and by altering the environment to produce more favorable conditions. Locations of archaeological sites are based on the constraints of these interactions, whether it be proximity to a particular resource, topographical restrictions, or shelter and protection. Sites will also contain an assemblage of artifacts and ecofacts consistent with the particular interaction.

3.1 ENVIRONMENT

The proposed project is located at the northern end of the Peninsular Range geomorphic province, a 900-mile (mi) long northwest-southeast-trending structural block that extends from the tip of Baja California to the Transverse Ranges and includes the Los Angeles Basin (Norris and Webb 1976). Specifically, the project is located at the northern end of the San Joaquin Hills. The San Joaquin Hills are a coastal extension of the Santa Ana Mountains and the westernmost range of the Peninsular Ranges Geomorphic Province (Barrie et al. 1992). The hills extend across approximately 90 square miles, extending from San Juan Capistrano in the south to the Huntington mesa in the north, including a 12 mi stretch of rugged coastline.

Located approximately 1 mi inland from the coast, the project area lies near Upper Newport Bay, which formed during the Pleistocene as the Santa Ana River cut through uplifted marine terraces. The project sits on an uplifted marine terrace. The Bay and the rivers that have flowed into it constitute important features of the landscape. These features determined the abundance and distribution of key resources in the past.

Santa Ana River

The Santa Ana River is the largest coastal stream system in Southern California (Scott 1977:7). Like the other major rivers of the Southern California coast, the Santa Ana River has frequently flooded and changed its course. The Santa Ana River probably has not flowed into Upper Newport Bay for several thousand years (MacDonald 1989; Davis 1996). Nevertheless, the Santa Ana River may have influenced life around Newport Bay even after its course took it to an outlet farther to the north. In historic times, the Santa Ana River flooded across vast areas of Orange County. Floods and droughts likely shaped adaptations in the past just as they have shaped modern development. Floods were likely unpredictable in frequency and intensity in the past and would have disrupted the nearby plant and animal communities that human inhabitants exploited.

San Diego Creek

Smaller streams also drain into Newport Bay. Prior to European settlement, the San Diego Creek system only flowed during periods of very high rainfall (Everts 1987; Guinn 1890). Currently, Bonita Creek and Big Canyon also flow periodically into Newport Bay.

The creek and river channels support a riparian woodland plant community where alders, cottonwoods, sycamores, and willows grow. Within this habitat, hunters and gatherers could have exploited seeds, fruits, and berries. Terrestrial game such as rabbits and deer also frequent this habitat.

These drainage systems have spread deep deposits of alluvial soils across the Tustin Plains. The region probably attracted hunters and gatherers because of the wetland resources that undoubtedly could be found there. These wetlands were widespread in the past and are discussed in the next section.

San Joaquin Marsh

When the Portolá expedition entered Orange County in 1769, the entire Tustin Plain, extending from the foothills of the Santa Ana Mountains to Red Hill and southward to Costa Mesa, was a large freshwater swamp. Called Cienega de las Ranas (Swamp of the Frogs) by the Portolá expedition, this extensive marsh caused the expedition to turn inland and traverse the foothills of the Santa Ana Mountains. The drainages of the San Diego Creek system graded into Cienega de las Ranas. One drainage, Laguna Canyon, breached the San Joaquin Hills and contains the only natural freshwater lakes in Orange County. It is likely that Laguna Canyon occasionally received high-volume runoff from the Cienega de las Ranas. The swampy landscape of Cienega de las Ranas would have been fairly difficult to traverse, so settlement might have been largely confined to higher ground. Abundant resources could have been exploited from the mesas and other high spots within the region. The list of resources that could have been obtained from this wetland habitat includes fish, shellfish, rabbits, deer, and migratory birds. Today, only a remnant of this once-extensive marsh, now called San Joaquin Marsh, exists. The San Joaquin Marsh lies at the head of Newport Bay.

Newport Bay

The Santa Ana River periodically fed into Newport Bay throughout the Holocene, although the San Diego Creek drains into Newport Bay today. Newport Bay is an estuary/lagoon system. Estuaries form when sea levels inundate the lower courses of river valleys, whereas lagoon systems form when sand barriers develop along the coast, creating an area of quiet, still water between the barrier and the mainland. Estuaries are known for their high biological productivity (Ketchum 1983) because many different ecological zones exist in proximity to each other. Various species of shellfish, fish, and waterfowl could be obtained from this area. This productivity, however, depends on a delicate balance of environmental conditions. Changes in sea level, sea temperature, salinity, precipitation, and sediment loads can all disrupt this balance, leading to declining productivity. Both floods and drought can engender such disruptive changes. A clear understanding of paleoenvironmental change is required to evaluate the resources and challenges that the inhabitants of the region faced.

3.2 PALEOENVIRONMENT

Although the Holocene climate was in general considerably more stable than the late Pleistocene climate (Ditlevsen et al. 1996; GRIP 1993), California has experienced relatively rapid changes in climatic and environmental conditions over the past 10,000 years. Climate was generally warmer during the Early Holocene than it was during the preceding Pleistocene period, except for a brief cold period. Consequently, sea levels rose steadily as ice that was formerly trapped in glaciers during the preceding Pleistocene period was freed (Inman 1983). The sequence of changes in paleocoastlines and habitats has been well documented for the southern coast (Gallegos 1987; Inman 1983; Masters and Gallegos 1997; Nardin et al. 1981; Waters et al. 1999). Rising sea levels generally produced rich estuarine habitats and rich near-shore habitats, including rocky reefs and kelp beds. During this period, Newport Bay was a deep embayment, and intertidal habitats occurred mainly at the head of the Bay.

The Middle Holocene may be characterized by relatively little interannual variability (Overpeck and Webb 2000). The climate was warmer than it had been previously (Davis 1992; Benaron 1998), and the environment grew drier (Axelrod 1981; Benaron 1998; Davis 1996; Heusser and Sirocko 1997). Sea levels stabilized at roughly their modern levels. Sea level stabilization provided time for many estuaries to become filled with sediments that were carried by the rivers that drained into the estuaries. The Santa Ana River, however, probably did not always discharge sediments into Upper Newport Bay, since this river may have changed course periodically throughout the Holocene. The drowning of the coastal plain to the west of Newport Bay by rising sea levels provided a source of sand that the tides carried into the Bay. These sediments expanded the shallow subtidal and intertidal habitats within the Bay (MacDonald 1989). Such habitats may have developed most fully during the Late Holocene.

Various lines of evidence attest to considerable environmental variability during the Late Holocene (e.g., Boxt et al. 1999; deMenocal 2001; Field and Baumgartner 2000; Jones and Kennett 1999; Kennett and Kennett 2000; Quinn 1992). Although the period may generally have been cool (GRIP 1993) and wet (Axelrod 1981), periodic drought afflicted the West during the Late Holocene period (Cook 2000; Dean 1996, 1996; deMenocal 2001; Hughes and Graumlich 1996; Ingram et al. 1996; Stine 1994). Alternations between wetter and drier periods during the last 750 years occurred within a period of about 200 years, and intervals of wet and dry climates lasted 40 to 160 years on average (Ingram et al. 1996).

Biologically, the project area is currently located in an urbanized coastal Orange County setting, although it was likely originally within the Coastal Scrub biotic community as defined by Jaeger and Smith (1971:43–44). This biotic community is characterized by gently sloping cismontane areas between the abruptly rising mountains and sea in areas from San Luis Obispo County south to San Diego. These areas are often covered by shrubs that, in their natural state, often reach heights of over 6 ft. The undeveloped portion of the project area comprises the northern and central parcels, while the southern parcel is already developed with the Newport Beach Central Library. The northern parcel is composed primarily of annual grassland plant community, and the central parcel is composed primarily of coastal sage scrub and ruderal grassland, with ornamental landscape around the perimeter of the site. In addition, the central parcel has two drainage courses composed primarily of freshwater marsh, mulefat scrub, and riparian willow scrub. Common plants in the central parcel include California sagebrush (*Artemisia californica*), California encelia (*Encelia californica*), coastal deerweed (*Lotus scoparius*), baccharis (*Baccharis* spp.), filaree (*Erodium* spp.), tocalote (*Centaurea*

melitensis), and ornamental acacia (*Acacia* sp.) around the periphery of the parcel. Common plants associated with the two drainages on site include cat-tails (*Typha* spp.), arroyo willow (*Salix lasiolepis*), and mulefat (*Baccharis salicifolia*). Common plants in the northern parcel include wild oats (*Avena* spp.), bromes (*Bromus* spp.), and hare barley (*Hordeum murinum* ssp. *leporinum*). Mammals include California ground squirrel (*Spermophilus beecheyi*), Audubon's cottontail (*Sylvilagus audubonii*), and Botta's pocket gopher (*Thomomys bottae*). Birds common to this community include mourning dove (*Zenaida macroura*), California towhee (*Pipilo fuscus*), house finch (*Carpodacus mexicanus*), and lesser goldfinch (*Carduelis psaltria*). Reptiles encountered include western fence lizard (*Sceloporus occidentalis*), common side-blotched lizard (*Uta stansburiana*), and western skink (*Plestiodon skiltonianus*).

Additionally, Rocky Shore, Coastal Strand, Coastal Saltmarsh, Freshwater Marsh, and Riparian Woodland biotic communities are all located near the project area (Jaeger and Smith 1971:39–43). These biological habitats all provided distinct flora and fauna that were used prehistorically as food resources. The remains of some of the more commonly used resources include shellfish from the Coastal Saltmarsh habitat in nearby Newport Bay. Some of the more common mollusks found within the Bay include the three varieties of California Venus (*Chione californiensis*, *C. fluctigraga*, and *C. undatella*), the pecten (*Argopecten* spp.), and the native California oyster (*Ostrea lurida*). These shell species were collected within the tidal mudflats as food by the natives and have been recovered from many prehistoric sites near Newport Bay. Shellfish inhabiting the rocky shore include the California mussel (*Mytilus californianus*) and the abalone (*Haliotis* spp.). These shell species are also commonly found on prehistoric sites in the region.

4.0 CULTURAL SETTING

4.1 PRECONTACT SETTING

Terminal Pleistocene (1.6 million to 10,000 years before present)

The first settlement in Southern California occurred during the Terminal Pleistocene. The Channel Islands were among the first areas to be occupied. Early sites from the San Miguel and Santa Rosa Islands, for example, date to well before 10,000 years ago (Erlandson et al. 1996; Rockwell and Stafford 2003). Evidence at sites dating to the Terminal Pleistocene and Early Holocene increasingly suggests that the early inhabitants of coastal California relied on marine resources and seeds, possessing an adaptation quite distinct from the big-game hunters of the Great Plains (Jones et al. 2002; Rick et al. 2002).

Early Holocene (10,000 to 6,650 years before present)

During the Early Holocene, settlement on the mainland coast was much more common (Erlandson 1994; Grenda and Altschul 2002; Jones 1992; Moss and Erlandson 1995). Groups depended mainly on shellfish and seed plants during most of the Early Holocene (Erlandson 1994; Jones et al. 2002; Warren 1968). The material culture employed by these hunter-gatherer groups was relatively simple (Erlandson and Colten 1991). Overall, the evidence indicates that groups were reasonably sedentary, facing little competition from their neighbors and so exploiting abundant local resources. Based on the frequency of radiocarbon-dated components through time, a number of such groups appeared in coastal Southern California after 8,000 years ago (Breschini et al. 1992), attesting to the early success of this adaptation.

Middle Holocene (6,650 to 3,350 years before present)

During the Middle Holocene, settlement in the region around the project area seems focused on the upper end of Newport Bay as stabilization of sea levels promoted the development of large shellfish populations (Mason and Peterson 1994). The local human populations grew increasingly sedentary, although they moved in small family groups onto the marine terraces southeast of the Bay during the summer to fish, collect shellfish, and gather seeds. In the later part of the Middle Holocene, exploitation of the environment intensified. Groups commonly used mortars and pestles, suggesting that they spent a lot of time processing acorns as part of the subsistence economy.

Late Holocene (3,350 years before present to AD 1782)

A decrease in settlement density occurred around the Newport Bay and along the Newport Coast (de Barros and Koerper 1990; Mason and Peterson 1994; Koerper et al. n. d.). Settlement was concentrated instead around Huntington Beach and the Bolsa Chica Mesa, perhaps due to changes in the course of the Santa Ana River. Settlement eventually returned to the Newport Bay Area, and populations grew quite large. The vast majority of prehistoric sites and components in Orange County

date from the Late Holocene Period. As populations grew, they exploited their environment with increasing intensity. The appearance of technological innovations, such as the shell fishhook (Rick et al. 2002), may attest to this intensification. A diversity of site types, both large and small, also proliferated in a range of environments (Koerper et al. n. d.; Mason and Peterson 1994). The Late Holocene archaeological record implies a complex pattern of planned mobility and opportunistic exploitation of local resources.

4.2 ETHNOGRAPHIC SETTING

Interpretations of the archaeological record of Late Holocene settlement systems and social organizations have typically depended on the current understanding of the native groups who lived in this region at the time of European contact. At the time of European contact, three ethnic groups may have utilized and occupied parts of the project area. Ethnographers have labeled these three groups as the Gabrielino, Juaneño, and Luiseño. They spoke related languages and shared fairly similar cultures. Because of their similarities, they will be discussed together in this brief review.

The exact boundaries between the Gabrielino, Juaneño, and Luiseño are unclear and probably are not necessary for understanding how precontact populations utilized the landscape. Groups faced considerable environmental variability, such as droughts and flooding, in the Late Holocene. In response to such variability, the local groups located their settlements near several habitats in locations that were not likely to be flooded (Bean and Shipek 1978; McCawley 1996). Groups may have not occupied the Newport Coast permanently. Rather, individual families may have typically come to the Newport Coast region only during the winter months, when other resources were scarce, in order to collect shellfish (Hudson 1971).

Environmental variability influenced not only site location but also the kinds of social institutions in which the coastal Gabrielino and Luiseño interacted. A community might contain 50 to 150 people (Earle and O'Neil 1994). One or more lineages, each of which was itself composed of several related nuclear families, lived in a typical community. Descent among these lineages was patrilineal, and membership in a lineage typically provided access to land owned by that lineage. Outsiders could only gather resources in the territory of another community with the permission of that community. Trade also provided access to the resources of other groups. This trade often occurred under the auspices of special social institutions. Gabrielino, Juaneño, and Luiseño communities used shell beads as a form of money in order to obtain scarce resources from other communities when they did not have other goods with which to engage in direct barter (Heizer 1968; Kroeber 1925; Strong 1929). Chiefs controlled ritual exchanges of shell beads; such exchanges maintained relationships with groups in other areas and thus provided access to resources in those areas.

4.3 HISTORIC SETTING

Exploration and Colonization

European exploration of California began in 1542 with the voyage of Spanish explorer Juan Rodriguez Cabrillo. Despite the death of Cabrillo during the voyage, his journey led to the colonization of Alta California (Gutierrez and Orsi 1998). To ensure control of Alta California, the Spanish built pueblos, presidios, and missions (Gutierrez et al. 1998). Between 1769 and 1822, the Spanish established a chain of 4 presidios, 2 pueblos, and 21 missions.

Cattle Herding

The Spanish Mission period ended when Mexico won its independence from Spain in 1821. The new Mexican government acted quickly to undermine the power and wealth of the California missions. The Mexican Republic passed the Secularization Act of 1833, which demoted the missions to parish churches and gave the Mexican governor power to redistribute the vast wealth controlled by the missionaries. The period between the 1830s and the 1840s is known as the golden age of ranching in California because the Mexican governor gave huge land grants during this time. Initially, the settlers used these large land grants for herding cattle. The Mexican governor distributed approximately 700 land grants between 1833 and 1846 (Cleland 1975). The governor granted Rancho San Joaquin to Don José Andres Sepulveda in 1842. This rancho spanned an area totaling 48,803 ac, covering the foothills of the Santa Ana Mountains and extending south toward Newport Beach and Laguna Canyon.

A series of events ended the era of cattle ranching. The Mexican-American War caused many ranch owners to lose their land. Demand for beef began to decline as early as 1855, due largely to the importation of sheep from New Mexico and cattle from the Mississippi and Missouri Valleys and the development of stock breeding farms (Cleland 1975:108). Floods and drought also afflicted California during the 1860s (Brewer 1930:253; Cleland 1975:130–131).

Sheep Herding

The early 1860s were a watershed in the history of Southern California. Drought forced many of the landowners who survived the collapse of the cattle market to sell their property; Don José Andres Sepulveda was among those who lost land.

Sepulveda sold Rancho San Joaquin in 1864 to a business partnership consisting of James Irvine I, Llewellyn Bixby, Thomas Flint, and Benjamin Flint. The four men called their partnership Flint, Bixby & Company. The newly formed rancho (which for a time retained the name Rancho San Joaquin) included 125,000 ac; with James Irvine's financial support, the company was grazing 30,000 sheep on 110,000 ac of the rancho by 1867 (Leibeck 1990: 6,10,11).

As cattle ranching declined, sheep raising grew in importance. Foremost among the pioneer wool growers in California was Flint, Bixby & Company. Between 1864 and 1866, Flint, Bixby & Company added Rancho San Joaquin to its holdings; under James Irvine's management, sheep raising on Rancho San Joaquin remained an important economic activity well into the 1880s. However, drought continued to plague ranchers.

Intensive Farming and Cattle Herding

In 1876, James Irvine I bought out his partners and became sole owner of Rancho San Joaquin; thereafter, the property was generally known as Irvine Ranch. Although Irvine managed to keep his vast landholdings intact, important changes took place on the rancho. Tenant farming was introduced around 1875 or 1876, and in 1882, Irvine began subdividing 1,440 ac southeast of Tustin and selling the land in 40ac parcels. In 1892, James Irvine II (also known as James Harvey Irvine, Sr.) inherited

the ranch; 2 years later, in 1894, he incorporated The Irvine Company and became its sole stockholder (Liebeck 1990:25,58). Under his direction, the Irvine Ranch continued its transition from sheep ranching to a diversified economy based on cattle ranching, agriculture (including dry farming), and tenant farming.

As the Irvine Ranch expanded, so did the need to ensure that the Ranch had adequate water resources available. A severe drought occurred during 1911 and 1912. The rapid expansion of the agricultural industry raised further concerns about the future availability of water resources. Irvine knew that the groundwater supply was quickly being exhausted. In 1913, Irvine created the Frances Mutual Water Company to ensure a reliable water supply. Starting in the late 1920s, the Frances Mutual Water Company initiated several important projects to stabilize the water supplies. Droughts came again in 1943, forcing Irvine to look outside the ranch for water supplies. Consequently, he negotiated a right-of-way with the Metropolitan Water District (MWD). By 1956, water from the Colorado River began flowing into the Santiago Reservoir (Liebeck 1990:42).

Urbanization

Agriculture remained the primary activity on the Irvine Ranch until World War II. Pressure for urbanization emerged in the years following World War II. In 1960, The Irvine Company hired William Pereira and Associates to create a Master Plan for the development of Irvine Ranch. Irvine Ranch is the largest master-planned area in North America. The Irvine Company continues to develop the area today as further projects are completed in the commercial, housing, and transportation industries (Liebeck 1990:88–89).

5.0 METHODS

5.1 ARCHIVAL RESEARCH

On February 10, 2009, a records search was conducted at the SCCIC located at California State University, Fullerton. It included a review of all recorded historic and prehistoric archaeological sites within a 1 mi radius of the project area as well as a review of cultural resource reports on file. In addition, the following inventories and maps were examined:

- National Register
- California Register
- California Historical Landmarks
- California Points of Historical Interest
- California State Historic Resources Inventory
- *Santa Ana, California* 15-minute quadrangle (USGS 1896, 1901)

The purpose of the records search is to determine whether any previously recorded archaeological sites are documented within the project area and to determine what type of sites may be expected to occur within the project area based on sites recorded within a 1 mi radius. Also, the general cultural sensitivity of the project area can be determined based on this information.

5.2 NATIVE AMERICAN CONSULTATION

Native American consultation was conducted by the City as required by policy. Natural Resources Policy 18.3 of the City's General Plan states that Native American organizations be notified of "proposed developments that have the potential to adversely impact cultural resources." LSA assisted with the consultation as directed by the City.

On February 4, 2009, a letter requesting an SLF search for the project area was sent to the NAHC. The NAHC responded on February 9, 2009, to state that the SLF was negative for the project area, and to provide a list of Native American Tribes and representatives that may have information regarding cultural resources that could be impacted by the project:

- Juaneño Band of Mission Indians Acjachemen Nation, David Belardes
- Gabrieleno/Tongva San Gabriel Band of Mission Indians, Anthony Morales
- Gabrielino Tongva Nation, Sam Dunlap
- Juaneño Band of Mission Indians Acjachemen Nation, Anthony Rivera
- Juaneño Band of Mission Indians, Sonia Johnston

In response to this recommendation, the City issued letters by certified mail on February 16, 2009, to all of the Tribal representatives on the NAHC list. The letters described the project and requested information regarding cultural resources that might be impacted. The letter specified that the City would like a reply within 90 days should the Tribes wish to consult. Subsequent to this correspondence, the NAHC sent a letter to the City dated May 4, 2009, acknowledging its receipt of the Notice of Preparation (NOP) and recommending that six additional parties be contacted:

- Ti'At Society, Cindi Alvitre
- Tongva Ancestral Territorial Tribal Nation, John Tommy Rosas
- Juaneño Band of Mission Indians, Alfred Cruz
- Juaneño Band of Mission Indians, Adolph "Bud" Sepulveda
- Juaneño Band of Mission Indians, Anita Espinoza
- United Coalition to Protect Panhe, Rebecca Robles

The City issued letters by certified mail on June 8, 2009, to the above Tribal representatives, requesting their input with regard to cultural resources that might be impacted by the project. Included in the mailing was the NOP and Initial Study (IS) for their review. The exception was John Tommy Rosas who prefers email correspondence. The letter and IS/NOP were emailed to him by LSA on June 10, 2009.

In summary, a total of 11 Tribal representatives were contacted by the City, all of which are affiliated with the Gabrielino, Gabrielino Tongva, or Juaneño Indian groups.

For copies of the NAHC correspondence and letters to the Tribes, please refer to Appendix B.

5.3 FIELD SURVEY

On March 31, 2009, LSA archaeologist Deborah McLean completed a survey of the northern and central parcels of the project area. The vicinity of the two archaeological sites, CA-ORA-167/1117 and CA-ORA-1461 (northern portion of the central parcel), was carefully examined to determine the current condition of the sites. Ms. McLean also attempted to locate site CA-ORA-139, which was identified by the records search as adjacent to the west side of the northern parcel, halfway between San Joaquin Hills Road and San Miguel Road. The portion of the central parcel that consists of very steep slopes above drainages was not examined as that proved to be infeasible. Regardless, steep drainage slopes typically do not produce evidence of cultural activity. The remainder of the central parcel consisted of flat or relatively flat terrain, and was surveyed by walking parallel transects spaced by approximately 5 meters. The northern parcel consisted of a steep slope, a small flat area, and two sections of landscaping. The slope was covered with grasses and visibility was at best 10 percent. The flat area was surveyed by walking parallel transects spaced by approximately 5 meters. The areas of landscaping were composed of imported landscaping soils. All surveying was done by visually inspecting the ground surface and rodent dirt piles for evidence of cultural remains. No excavation of any type occurred.

6.0 REPORT OF FINDINGS

6.1 ARCHIVAL RESEARCH

The records search indicated that within the 1 mi radius, 28 archaeological sites have been recorded, 2 of which are identified as within the project area (CA-ORA-167/1117 and CA-ORA-1461) and 1 that is adjacent to the project (CA-ORA-139). No sites are listed on the Archaeological Determination of Eligibility list. No isolates have been identified within the 1 mi radius of the project area. Two historic cultural resources have been identified within the 1 mi radius. Neither is within the project area.

None of the inventories identified any sites within the project area. Within the 1 mi radius search area, one site each was identified by the California Points of Historical Interest (the site of the 1953 National Boy Scout Jamboree [present-day Newport Center]) and the California Register. No sites within the 1 mi radius search area were identified by either California Historical Landmarks or the National Register.

Within the 1 mi radius search area, 50 studies have been conducted. Of these, 3 included at least portions of the project area. The records search letter is included as Appendix C.

6.2 NATIVE AMERICAN CONSULTATION

On March 2, 2009, a telephone response was received from Joyce Perry, Tribal Manager and assistant to David Belardes, Tribal Chairman (Juaneño Band of Mission Indians Acjachemen Nation). Ms. Perry requested participation in the consultation process and stated that the Tribe possessed information about cultural resources that it would like to share with the City on a confidential basis. It was agreed that a meeting between the Tribe and the City would be scheduled.

Due to no response from the remaining four groups, follow-up telephone calls were made by LSA on behalf of the City on March 18, 2009. Mr. Morales (Gabrielino/Tongva San Gabriel Band of Mission Indians) stated that he has worked in the area before and knows it to be sensitive for cultural resources. He recommended construction monitoring by both an archaeologist and a Native American monitor. He also asked to continue to receive information regarding the project and to be notified of any cultural resource discoveries. Mr. Dunlap (Gabrielino Tongva Nation) confirmed that he had received the letter from the City and would review and comment if necessary. He also requested continued involvement in the consultation process. Detailed messages were left for Mr. Rivera (Juaneño Band of Mission Indians Acjachemen Nation) on March 18 and 24, 2009. The Tribe responded on March 24 to request that the letter be resent by email. The Tribe sent an official response letter by email on March 27, 2009. The letter asked to work together with the City regarding cultural resources and recommended monitoring of construction by a certified Native American Monitor through the Tribal company, Native Environmental Solutions. Sonia Johnston (Juaneño Band of Mission Indians) requested that the letter be resent by email and stated that she would comment if necessary. She requested continued consultation as well.

In response to the unanimous requests from the Tribes for continued consultation, the City directed that the Notice of Preparation (NOP) and Initial Study (IS) for the project be emailed to everyone on the NAHC list on April 1, 2009. Per City policy, the project NOP and IS were also sent to the Gabrielino-Tongva Tribe. The Tribe responded by letter to the City on April 6, 2009, requesting that, due to the sensitive nature of the project area, all construction activities be monitored by a Tribally approved monitor.

A meeting of the City, Ms. Perry, and Mr. Belardes was held per the Tribe's request on April 16, 2009. LSA was also in attendance. The meeting included a project overview and a discussion of the two previously recorded sites within the property. The history of disturbance in the project area was also discussed. The Tribe was concerned about potential impacts to the sites during construction. LSA and the City discussed the layout of the project and what areas were likely to sustain the most impacts. LSA and the City also illustrated how the project proposes to cap with fill sensitive areas and utilize them as open space. The City emphasized that monitoring by an archaeologist and a Native American monitor would be required throughout construction when ground-disturbing activities are in native soil. The Tribal representatives agreed with the City's approach, stating also that the meeting had been very informative and that they appreciated the opportunity to speak with the City. They look forward to working with all participants and requested that they remain informed throughout the process in order to be of assistance. The Tribe requested a copy of the archaeological testing report produced by LSA (Strudwick et al. 1996). On April 20, 2009, the report was emailed to them. LSA spoke with Ms. Johnston again on April 20, 2009. She also requested a copy of the archaeological testing report produced by LSA (Strudwick et al. 1996). The report was emailed to her on April 20, 2009.

The City issued letters by certified mail on June 8, 2009, to the six parties that were consulted as recommended by the NAHC due to its receipt of the NOP. Included in the mailing was the IS/NOP for their review. The exception was John Tommy Rosas (Tongva Ancestral Territorial Tribal Nation). Because he prefers email correspondence, the letter and IS/NOP were emailed to him by LSA on June 10, 2009.

John Tommy Rosas responded by email on June 10, 2009, to state that he would review the information and respond. Because responses were not received from the remaining five parties, follow-up phone calls were made on June 15, 2009. Detailed voicemails were left for Cindi Alvitre (Ti' At Society), and Alfred Cruz (Juaneño Band of Mission Indians). Both Anita Espinoza (Juaneño Band of Mission Indians), and Rebecca Robles (United Coalition to Protect Panhe) acknowledged that they had received the City's correspondence and would comment if necessary after reviewing the information. A follow-up email was sent to Adolph Sepulveda (Juaneño Band of Mission Indians) because there was no answer at the number provided by the NAHC.

To date, no response has been received from Ms. Alvitre, Mr. Cruz, or Mr. Sepulveda. The IS/NOP packet that was sent to Ms. Alvitre was returned as "unclaimed" on June 30, 2009. During the follow-up phone call on June 15, 2009, Ms. Robles stated that she would likely comment; however, no comment has been received to date. Ms. Espinoza returned the call on June 18, 2009, to say that she does consider the project area to be sensitive for cultural resources. She would like to be kept informed of any discoveries and recommends monitoring by a Native American and an archeologist subsequent to any discoveries.

Mr. Rosas sent initial comments by email on June 26, 2009. In those comments, Mr. Rosas stated that he objects to the project due to the high sensitivity of the area for cultural and other resources. He requested consultation with the City, but agreed that the consultation could be mediated by LSA. The City extended an offer to meet with Mr. Rosas, and he suggested that a format for consultation be set up prior to the meeting. Mr. Rosas offered to provide a format as an example, but the format was not received. However, numerous attempts to meet with Mr. Rosas and discuss his concerns were extended by LSA on behalf of the City during the period between June 26, 2009, and August 13, 2009. Consultation with Mr. Rosas via email and phone is continuing. All of the Native American groups who requested continued involvement in the project are currently in consultation with the City. For additional information regarding the consultation, please see Appendix B.

6.3 FIELD SURVEY

The March 31, 2009, survey did not identify any previously unrecorded archaeological sites. The project site contains the previously recorded archaeological sites CA-ORA-167/1117 and CA-ORA-1461. Evidence of these sites was scarce, but present in the form of a light scatter of shell that included pecten (*Argopecten* spp.), Venus clam (*Chione* spp.), and mussel (*Mytilus* spp.). DPR forms were updated (Appendix A). There was no evidence of archaeological site CA-ORA-139, and its recorded location is completely paved with sidewalk, Avocado Avenue, and additional built environment on the west side of Avocado Avenue. The southern portion of the central parcel revealed only what appears to be a sparse assemblage of small gastropods and pelecypods consistent with the local fauna from Pleistocene terraces. This fauna is not indicative of human resource gathering.

7.0 DISCUSSION

Historic Resources

No sites within the 1 mi radius search area were identified by either California Historical Landmarks; neither the proposed project nor any of the archaeological sites on the project are eligible for listing in the California Register. No impacts to historic resources, as defined by CEQA, are anticipated with implementation of the proposed project.

Archaeological Resources

The proposed project site is sensitive for archaeological resources. Archival research indicated that two archaeological sites, CA-ORA-167/1117 and CA-ORA-1461, are located within the project site boundaries, and a field survey confirmed that evidence of both sites is present. Both have been evaluated prior to the current project and determined not eligible for listing in the California Register. As previously stated, during monitoring for the MacArthur Boulevard Widening Project, a Native American burial was discovered on the proposed project site. It was reburied off site by the Native Americans involved with that project.

One additional site, CA-ORA-139, was identified in the archival research as being immediately adjacent to the project site. During the field survey there was no evidence of this site, as it appears to be completely destroyed by development of adjacent infrastructure (e.g., streets, sidewalks).

With the presence of sites CA-ORA-167/1117 and CA-ORA-1461, one of which produced a human burial, and the presence of 28 other previously recorded sites within the vicinity, the project area in general is considered sensitive for cultural resource sites, and the portion of the project area that contains site CA-ORA-1461 is considered highly sensitive. As discussed further in Section 8.0, any ground disturbance to the project site should be appropriately monitored, and disturbance of the existing archaeological sites should be avoided. Project plans currently show proposed walking paths and picnic areas in the vicinity of the existing archaeological sites. Implementation of the measures contained in Section 8.0 would reduce project impacts to below a level of significance under CEQA.

Human Remains

As stated above, the proposed project site is sensitive for archaeological resources and was the site of a human burial that was removed and reburied off site. Although no additional human remains are anticipated to be discovered, compliance with State Health and Safety Code (HSC) 7050.5 is required.

8.0 RECOMMENDATIONS

This study confirmed the existence of two archaeological sites that are considered to be highly sensitive and also confirmed that the project area in general is considered to be highly sensitive for cultural resources. In order to mitigate potential impacts to known and buried archaeological resources, LSA recommends the following measures:

- **Archaeological and Native American Monitors.** Prior to commencement of any grading activity on site, the City shall retain an archaeological monitor and a Native American monitor. Both monitors shall be present at the pregrade conference in order to explain the cultural mitigation measures associated with the project. Both monitors shall be present on site during all ground-disturbing activities until marine terrace deposits are encountered. Once marine terrace deposits are encountered, archaeological and Native American monitoring is no longer necessary, as the marine deposits are several hundred thousand years old, significantly predating human settlement in this area.
- **Monitoring Plan.** Prior to commencement of any grading activity on site, the City shall prepare a monitoring plan. The monitoring plan shall be prepared by a qualified archaeologist and shall be reviewed by the City of Newport Beach Director of Planning. The monitoring plan should include at a minimum: (1) a list of personnel involved in the monitoring activities; (2) a description of how the monitoring shall occur; (3) a description of frequency of monitoring (e.g., full-time, part-time, spot checking); (4) a description of what resources may be encountered; (5) a description of circumstances that would result in the halting of work at the project site (e.g., what is considered a “significant” archaeological site); (6) a description of procedures for halting work on site and notification procedures; and (7) a description of monitoring reporting procedures. If any significant historical resources, archaeological resources, or human remains are found during monitoring, work should stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. It shall be the responsibility of the City Department of Public Works to verify that the monitoring plan is implemented during project grading and construction. Upon completion of all monitoring/mitigation activities, the consulting archaeologist shall submit a monitoring report to the City of Newport Beach Director of Planning and to the South Central Coastal Information Center (SCCIC) summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met. The monitoring report shall be prepared consistent with the guidelines of the Office of Historic Preservation’s *Archaeological Resources Management Reports (ARMR): Recommended Contents and Format*.
- **Archaeological Site Avoidance.** Grading and excavation in the vicinity of the existing archaeological site CA-ORA-1461 shall be avoided. To achieve level surfaces for proposed project paths, clean (culturally sterile) soils shall be used to cap and protect the sites. Prior to commencement of grading activities, the City of Newport Beach Director of Public Works shall verify that project grading plans show avoidance of existing cultural sites. The Director of Public Works shall also verify that grading plans show that existing cultural sites shall be capped with a

minimum of 12 inches of culturally sterile soils from a known source prior to commencement of any grading activity within 25 feet (ft) of these sites. The boundaries of the site shall be identified by a qualified archaeologist to ensure the entireties of the sites have been capped.

- **Accidental Discovery.** If any significant historical resources, archaeological resources, or human remains are found during monitoring, all work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. Project personnel shall not collect or move any archaeological materials or human remains and associated materials. It is recommended that adverse effects to such deposits be avoided by project activities. If avoidance is not feasible, the archaeological deposits should be evaluated for their eligibility for listing in the California Register of Historic Places (California Register). If the deposits are not eligible, avoidance is not necessary. If the deposits are eligible, adverse effects on the deposits must be avoided, or such effects must be mitigated. Mitigation can include, but is not necessarily limited to: excavation of the deposit in accordance with a data recovery plan (see California Code of Regulations [CCR] Title 14(3) Section 15126.4(b)(3)(C)) and standard archaeological field methods and procedures; laboratory and technical analyses of recovered archaeological materials; production of a report detailing the methods, findings, and significance of the archaeological site and associated materials; curation of archaeological materials at an appropriate facility for future research and/or display; an interpretive display of recovered archaeological materials at a local school, museum, or library; and public lectures at local schools and/or historical societies on the findings and significance of the site and recovered archaeological materials.

Upon completion of the assessment, the consulting archaeologist shall prepare a report documenting the methods and results and provide recommendations for the treatment of the archaeological deposits discovered. The report shall be submitted to the City of Newport Beach Director of Planning and the South Central Coastal Information Center (SCCIC). The City of Newport Beach Director of Planning or designee shall be responsible for reviewing any reports produced by the archaeologist to determine the appropriateness and adequacy of findings and recommendations.

- **Human Remains.** If human remains are encountered, work within 25 feet (ft) of the discovery shall be redirected and the County Coroner notified immediately. State Health and Safety Code (HSC) Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code (PRC) Section 5097.98. If the remains are determined to be Native American, the County Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a most likely descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

Upon completion of the assessment, the consulting archaeologist shall prepare a report documenting the methods and results and provide recommendations regarding the treatment of the human remains and any associated cultural materials, as appropriate, and in coordination with the recommendations of the MLD. The report should be submitted to the City of Newport Beach Director of Planning and the South Central Coastal Information Center (SCCIC). The City of Newport Beach Director of Planning, or designee, shall be responsible for reviewing any reports

produced by the archaeologist to determine the appropriateness and adequacy of findings and recommendations.

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APPENDIX A

DEPARTMENT OF PARKS AND RECREATION FORMS
(SERIES 523)

PRIMARY RECORD Primary #:
California Department of Parks and Recreation
Office of Historic Preservation

HRI #:
Trinomial: CA-ORA-167/1117
NRHP Status Code:
Other Listings:

Page 1 of 9 Review Code _____ Reviewer _____ Date _____

P1. Property Name/Temporary No.:

P2. Location: (Address and parcel number OR UTM coordinates and location map required.)

County:

a. **Address:** MacArthur Boulevard
City: Newport Beach

Zip:

b. **Parcel Number:**

c. **UTM:** Zone 11: 419280 mE / 3719020 mN

USGS Quad: Laguna Beach (7.5') Dated: 1965, Photo revised 1981.

d. **Township** 6.5; **Range** 10W. **SW** ¼ of the **SE** ¼ of the **SE** ¼ of the **NW** ¼ of Sect. 93. Base Meridian SB.

e. **Other Locational Data:** (Provide legal description, directions to resource, and/or other locational information if appropriate.)

Site is located along east side of MacArthur Boulevard in a level area just north of a knoll and south of a small drainage approximately 0.6 km (0.4 mile) north of the intersection of MacArthur Blvd. and PCH. The site is approximately 1.6 km (1.0 mile) in land of the Pacific Ocean, at the Newport Harbor entrance to Newport Bay.

P3. Description: (Describe resource and its major elements. Include design, materials, condition, size, setting, and boundaries as relevant.)

Previous documentation shows that as originally recorded, site ORA-167 existed in this location. Subsequent updating (Douglas 1980) somehow re-recorded the site to the east, where no site exists. To avoid future confusion (and to combine both site record forms), this site now carries both trinomials. Thus both sites, ORA-167 and ORA-1117 are the same site: ORA-167/1117. ORA-167/1117 is a shell midden as shown by excavation of 9 STPs and two 1x1 m units. The site measures approximately 35 m (N-S) by 45 m (E-W) and contains a maximum depth of 70-90 cm. This site is somewhat disturbed due to construction of MacArthur Boulevard and because of dumping, which has added much dirt north and south of the datum. Items recovered include 1 mano fragment, 1 utilized obsidian flake, 24 flakes, 23 recent historic items (rusted metal and glass fragments), 2,009.2 g of marine shell, 1.4 g of charcoal and 0.8 g of bone. The lack of appreciable amounts of bone, and lithic material coincident with the presence of relatively large amounts of shell indicates that this site was used prehistorically to process shellfish gathered locally.

P4. Resources Present: _____ Building ___ Structure ___ Object X Site ___ District ___ Element of District ___ N/A

P5. Resource Attributes: (List relevant attributes and codes) Shell midden (AP16) and lithics (AP2).

P6. Photograph or Drawing: (Photograph required for buildings, structure, and objects.)

PRIMARY RECORD - continued
California Department of Parks and Recreation
Office of Historic Preservation

Page 2 of 9

Primary #:
HRI #:
Trinomial: CA-ORA-167/1117
NRHP Status Code:
Other Listings:

P7. Date Constructed/Age:

Prehistoric Historic Both

P8. Owner: (Name & Address): City of Newport Beach

P9. Updated by: I. Strudwick
Project No.: DEI630

LSA Associates, Inc.,
One Park Plaza, Suite 500
Irvine, CA. 92714

P10. Date updated: June 30, 1996

P11. Type of Survey:

Intensive
 Reconnaissance
 Other

Describe: Test investigation using 9 STPs and 2 1x1m units.

P12. Report citation: (Provide full citation or enter "none.") Strudwick, McCawley and Sturm. 1996. Results of Archaeological Testing at Sites CA-ORA-167/1117 and ORA-1461, for the MacArthur Boulevard Widening, City of Newport Beach, California. LSA Associates, Inc.

Attachments: None
 Location Map
 Building, Structure, and Object Record
 Linear Resource Record
 Archaeological Record
 District Record
 Milling Station Record
 Rock Art Record
 Artifact Record (Table)
 Photograph Record (2)
 Other: (List) Site map

ARCHAEOLOGICAL SITE RECORD (PART 1)

California Department of Parks and Recreation
Office of Historic Preservation

Primary #: _____

Trinomial: CA-ORA-167/1117

Page 3 of 9

A1. Temporary No./Name:

A2. Dimensions: a. Length 35 m (N-S) x b. Width 45 m (E-W)
Method of measurement: Paced Taped Visual estimate Other _____
Method of determination: (Check all that apply) Artifacts Features Soil Vegetation
 Topography Cut bank Animal burrow Excavation Property boundary
 Other: (Explain):

Reliability of determination: High Low Explain: An intensive surface survey and the excavation of 9 STPs and 2 1x1 m units defined the horizontal and vertical extent of the site.

Limitations: (Check any that apply) Restricted access Paved/built over Disturbances Site limits incompletely defined Other: (Explain) Site will be bulldozed to widen MacArthur Boulevard.

A3. Depth: 70-90 cm None Unknown Method of Determination: Excavation of 9 STPs and 2 1x1 m units.

A4. Human Remains: Present Absent Possible Unknown (Explain): Unlikely, due to type of site.

A5. Features: (Number, briefly describe, indicate size, list associated cultural constituents, and show location of each feature on sketch map)

None observed.

A6. Cultural Constituents: (Describe and quantify artifacts, ecofacts, cultural residues, etc., not associated with features)

1 mano fragment, 1 utilized obsidian flake, 24 flakes, 23 recent historic items (rusted metal and glass), 2,009.2 g of marine shell, 1.4 g of charcoal and 0.8 g of bone (refer to attached table).

A7. Were Specimens Collected? No Yes (If yes, attach Artifact Record or catalog)

A8. Site Condition: Good Fair Poor (Describe disturbances): Construction of MacArthur Blvd., dumping on site and rodent disturbance. The site was recently disced. Current testing shows the site is not important under CEQA and the east half will be destroyed during future widening of MacArthur Blvd.

ARCHAEOLOGICAL SITE RECORD (PART 2)
California Department of Parks and Recreation
Office of Historic Preservation

Primary #: _____
Trinomial: CA-ORA-167/1117

Page 4 of 9

A9. Nearest Water: (Type, distance, and direction) Water in drainage 20m north.

A10. Elevation: 180 ft

A11. Environmental Setting: (Describe vegetation, fauna, soils, geology, landform, slope, aspect, exposure, etc., as appropriate)

Site is in an open, plowed field in an area of uplifted Pleistocene sandy marine terrace deposits. Prehistorically, the area was probably originally covered with coastal sage/chaparral.

A12. Historical Information: (Note sources and provide full citations in Field A15 below)

None.

A13. Age: Prehistoric Pre-Colonial (1500-1769) Spanish/Mexican (1769-1848)
 Early American (1848-1880) Turn of Century (1880-1914)
 Early 20th Century (1914-1945) Post WWII (1945+) Undetermined
Factual or estimated dates of occupation (explain):

Prehistoric midden deposits.

A14. Remarks and Interpretations: (Discuss scientific, interpretive, ethnic, and other values of site, if known)

Due to the sparse nature of artifacts, the inconsistent nature of shell deposition and the disturbed nature of the deposit, this site contains little additional scientific value.

A15. References: (Give full citations including the names and addresses of any persons interviewed, if possible)

Strudwick, McCawley and Sturm. 1996. Results of Archaeological Testing at Sites CA-ORA-167/1117 and ORA-1461, for MacArthur Boulevard Widening, City of Newport Beach, California. LSA Associates, Inc

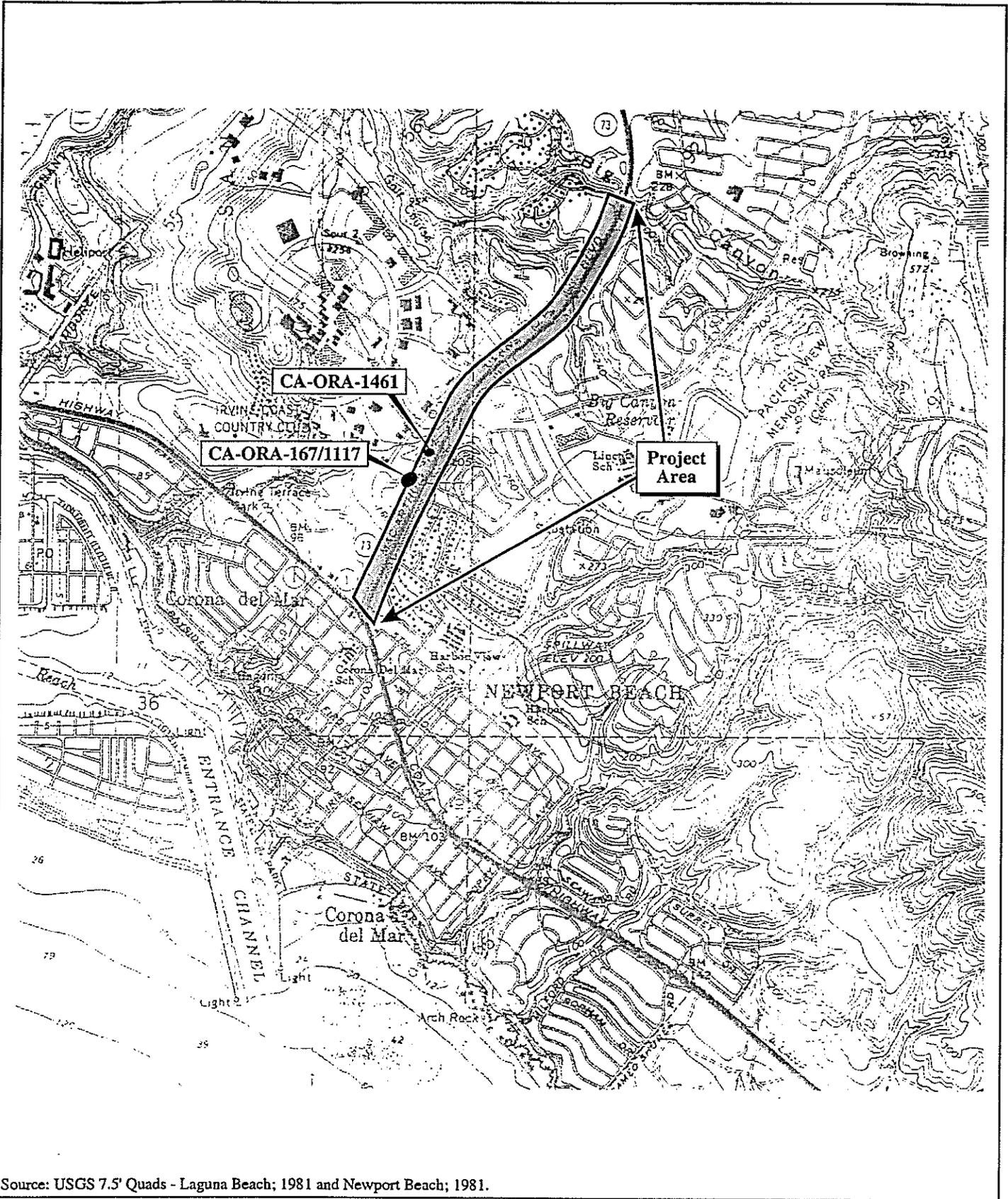
A16. Photographs: (List camera format, lens focal length, film type and speed, subjects, and accession numbers or attach a Photograph Record)

See attached photo log.

A17. Form Prepared By: I. Strudwick **Date:** June 30, 1996

Affiliation and address: LSA Associates, Inc.; One Park Plaza, Suite 500; Irvine, CA 92714

Project No.: DEI630

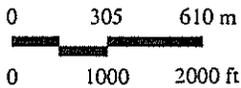


8/13/96(DEI630)

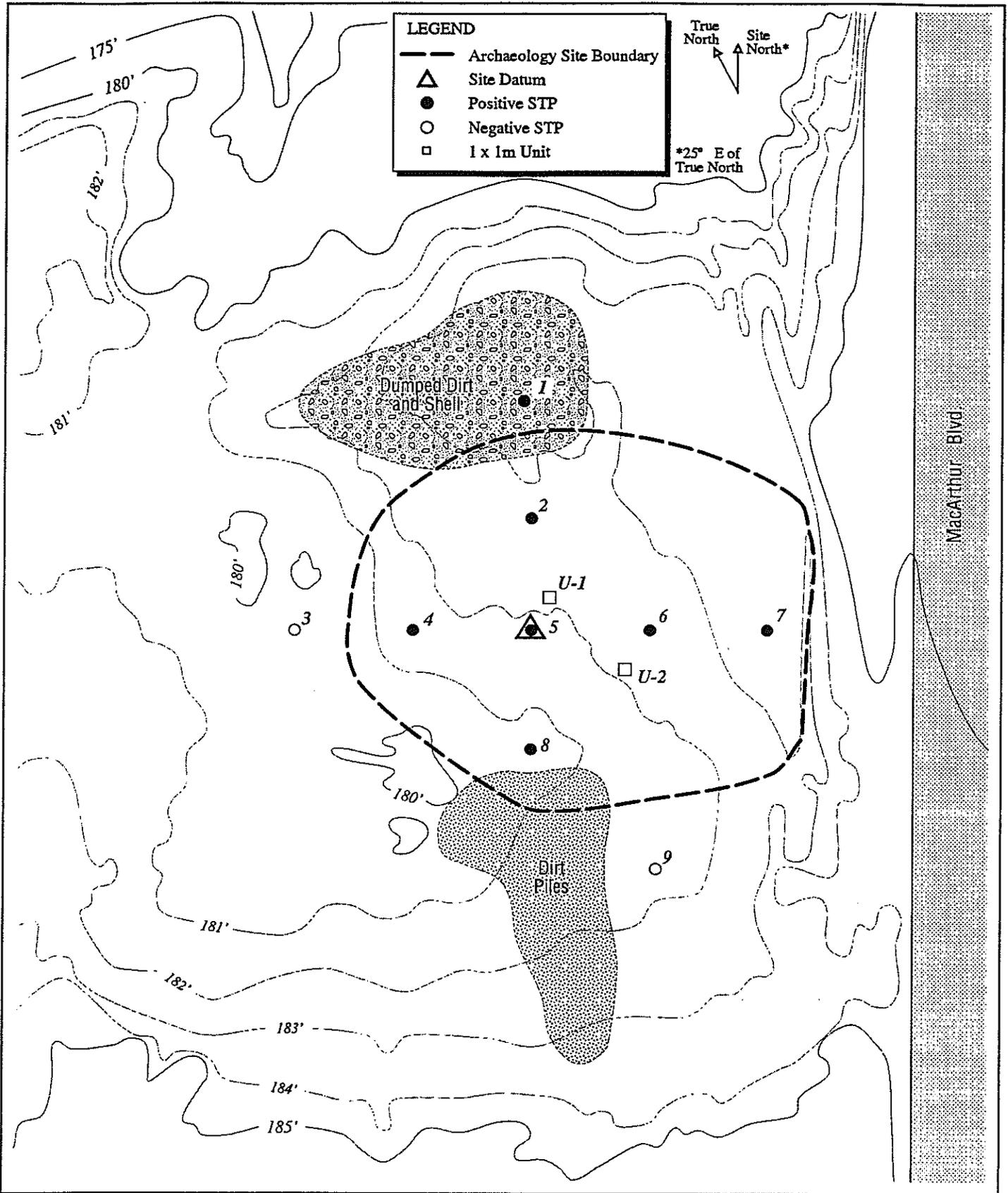
Figure



LSA



Project Location



9/11/96(DEI630)

Figure



CA-ORA-167/1117 Site Map
Showing Location of Shovel
Test Pits (STPs) and Excavation Units

TABLE 1
CA-ORA-167/1117
SUMMARY OF CULTURAL MATERIAL BY PROVENIENCE

	STP									Unit		Unit	Surf.	Total	
	1	2	4	5	6	7	8	9	Total	1	2	Total	Coll.		
Total Depth (cm)	(30)	(50)	(90)	(70)	(60)	(50)	(70)	(60)		(70)	(90)				
Mano Fragment	--	--	--	--	--	--	--	--	--	--	1	1	--	1	
Utilized Flake	--	--	--	--	--	--	--	--	--	--	--	--	1	1	
Flake	1	--	--	--	--	1	--	--	2	11	11	22	--	24	
Historic Item	--	--	--	--	--	15	--	5	20	2	1	3	--	23	
Bone*	--	--	--	--	--	--	--	--	--	--	0.8	0.8	--	0.8	
Charcoal*	--	--	--	--	--	--	--	--	--	--	1.4	1.4	--	1.4	
Shell*	3.3	1.1	111.2	38.3	27.9	2.6	25.6	--	210.0	165.7	1,633.5	1,799.2	--	2,009.2	
Marine Shell Species															
Scientific/Class	Common														
<i>Argopecten</i> sp.	Pecten	--	--	46.7	19.5	15.8	--	9.3	--	91.3	33.0	1,187.2	1,220.2	--	1,311.5
<i>Ostrea lurida</i>	Nat. Cal. Oyster	2.3	0.1	17.4	9.7	5.3	--	4.2	--	39.0	15.8	312.2	328.0	--	367.0
<i>Chione</i> sp.	Venus	0.2	1.0	44.9	9.1	2.4	2.6	7.8	--	68.0	110.3	72.1	182.4	--	250.4
<i>Astraea undosa</i>	Wavy Turban	--	--	--	--	3.8	--	--	--	3.8	1.1	26.3	27.4	--	31.2
<i>Polinices</i> sp.	Moon Shell	--	--	--	--	--	--	--	--	--	4.9	1.5	6.4	--	6.4
<i>Crepidula</i> sp.	Slipper Shell	--	--	0.2	--	0.6	--	--	--	0.8	0.6	29.2	29.8	--	30.6
<i>Crucibulum spinosum</i>	Cup & Saucer Limpet	--	--	--	--	--	--	--	--	--	--	1.0	1.0	--	1.0
Amphineura	Chiton	--	--	1.3	--	--	--	--	--	1.3	--	0.2	0.2	--	1.5
<i>Tegula</i> sp.	Top Shell	--	--	--	--	--	--	--	--	--	--	2.5	2.5	--	2.5
<i>Mytilus</i> sp.	Mussel	--	--	0.7	--	--	--	--	--	0.7	--	--	--	--	0.7
<i>Semele</i> sp.	Semele	--	--	--	--	--	--	4.3	--	4.3	--	--	--	--	4.3
<i>Donax gouldii</i>	Bean Clam	0.1	--	--	--	--	--	--	--	0.1	--	--	--	--	0.1
Unidentified	Unidentified	0.7	--	--	--	--	--	--	--	0.7	--	1.3	1.3	--	2.0

* weight in grams

CONTINUATION SHEET

Page 1 of 1

*Resource Name or #: (Assigned by recorder)

*Recorded by Deborah McLean

*Date May 1, 2009

Continuation Update

On March 31, 2009, site CA-ORA-1461 was surveyed for the City Hall and Park Development Plan project for the City of Newport Beach, Orange County, California. Evidence of the site was scarce, but present in the form of a light scatter of shell that included pecten (*Argopecten* spp.), Venus clam (*Chione* spp.), and mussel (*Mytilus* spp.).

PRIMARY RECORD Primary #:
California Department of Parks and Recreation
Office of Historic Preservation

HRI #:
Trinomial: CA-ORA-1461
NRHP Status Code:
Other Listings: MBW-S-1

Page 1 of 9 Review Code _____ Reviewer _____ Date _____

- P1. Property Name/Temporary No.:** MBW-S-1
- P2. Location:** (Address and parcel number OR UTM coordinates and location map required.)
County:
- a. **Address:** MacArthur Boulevard
City: Newport Beach **Zip:**
 - b. **Parcel Number:**
 - c. **UTM:** Zone 11: 419320 mE / 3719140 mN
USGS Quad: Laguna Beach (7.5') Dated: 1965, Photo revised 1981
 - d. **Township** 65; Range 10W. SE ¼ of the SE ¼ of the SE ¼ of the NW ¼ of Sect. 93. Base Meridian 5B.
 - e. **Other Locational Data:** (Provide legal description, directions to resource, and/or other locational information if appropriate.) The site is located at the southern edge of a low ridge 30 m west of MacArthur Blvd. and approximately 80 m south of San Miguel Drive. The site is about 1.6 km (1.0 mile) inland of the Pacific Ocean at the Newport Harbor entrance to Newport Bay.

P3. Description: (Describe resource and its major elements. Include design, materials, condition, size, setting, and boundaries as relevant.)
The site is a shell midden as shown by testing including excavation of 8 shovel test pits (STPs) and one 1x1 m unit. The site measures approximately 25 m (E-W) by 40 m (N-S) and contains a depth of 40-50 cm where intact midden deposits are located. Cultural material recovered from the 1x1 m unit includes 2 utilized flakes, 6 flakes, 3,786.0 g of marine shell, 12.6 g of ochre, and 4.9 g of bone and indicates the site was used primarily for the subsistence related activity of processing marine shellfish gathered principally within nearby prehistoric Newport Bay. One burial was found at N 5/W 4, during construction grading. The burial, with associated groundstone artifacts, was excavated on July 2 and 3, 1996.

- P4. Resources Present:** ___ Building ___ Structure ___ Object X Site ___ District ___ Element of District ___ N/A
- P5. Resource Attributes:** (List relevant attributes and codes) Shell midden (AP16), with 1 rock hearth (AP11) and 1 burial (AP9).

P6. Photograph or Drawing: (Photograph required for buildings, structure, and objects.)

PRIMARY RECORD - continued
California Department of Parks and Recreation
Office of Historic Preservation

Page 2 of 9

Primary #:
HRI #:
Trinomial: CA-ORA-1461
NRHP Status Code:
Other Listings: MBW-S-1

P7. Date Constructed/Age:

Prehistoric Historic Both

P8. Owner: (Name & Address): City of Newport Beach

P9. Recorded by: I. Strudwick

Project No.: DEI630

LSA Associates, Inc.,
One Park Plaza, Suite 500
Irvine, CA. 92714

P10. Date recorded: June 30, 1996

P11. Type of Survey:

Intensive
 Reconnaissance
 Other

Describe: Test level investigation using 8 STPs and 1 1x1m unit.

P12. Report citation: (Provide full citation or enter "none.") Strudwick, McCawley and Sturm. 1996. Results of Archaeological Testing at Sites CA-ORA-167/1117 and CA-ORA-1461, for the MacArthur Boulevard Widening Project, City of Newport Beach, California. LSA Associates, Inc.

Attachments: None
 Location Map
 Building, Structure, and Object Record
 Linear Resource Record
 Archaeological Record
 District Record
 Milling Station Record
 Rock Art Record
 Artifact Record (Table)
 Photograph Record (2)
 Other: (List) Site map

ARCHAEOLOGICAL SITE RECORD (PART 1)
California Department of Parks and Recreation
Office of Historic Preservation

Primary #: _____
Trinomial: CA-ORA-1461

Page 3 of 9

A1. Temporary No./Name: MBW-S-1

A2. Dimensions: a. Length 25 m (E-W) x b. Width 40 m (N-S)
Method of measurement: Paced Taped Visual estimate Other _____
Method of determination: (Check all that apply) Artifacts Features Soil Vegetation
 Topography Cut bank Animal burrow Excavation Property boundary
 Other: (Explain): See reliability of determination below.

Reliability of determination: High Low Explain: An intensive surface survey and the excavation of 8 STPs and 1 1x1 m unit defined the horizontal and vertical extent of the site.

Limitations: (Check any that apply) Restricted access Paved/built over Disturbances Site limits incompletely defined Other: (Explain) Previous disturbance to site surface and along east side toward MacArthur Blvd. Majority of site was covered with bulldozer sediments. Site is currently destroyed due to widening of MacArthur Blvd.

A3. Depth: 50cm None Unknown Method of Determination: Excavation: 8 STPs and 1 1x1m unit, excavation and removal of 1 burial.

A4. Human Remains: Present Absent Possible Unknown (Explain): One human burial was found during construction grading. The skull is located just west of point N 5/W 4 from the site datum. The burial is approximately 30-40 percent complete and a coroner's report completed by Dr. Judy Suchey indicates it is a male over the age of 30 years, who was probably 5'2" to 5' 6". One and possibly two funeral hearths are associated with the burial. Seven groundstone items (1 mano, 1 mano/pestle, 1 pestle, 3 mano fragments and 1 smoothed siltstone) are directly associated with the burial. Eight marine shells were also collected during burial excavation, but these are not conclusively associated. Two of the shells, both *Haliotis cracherodii*, have been purposefully shaped. A confidential report is included as Appendix H to the site report referenced (Strudwick et al. 1996).

A5. Features: (Number, briefly describe, indicate size, list associated cultural constituents, and show location of each feature on sketch map)
One feature, a rock hearth, was found in Unit 1, 10-30 cm. Hearth feature consists of 14 fist-sized rocks in a tightly clustered group in the NW corner of Unit 1 (refer to site map). No artifacts or ecofacts were associated with this feature. A burial is present at a point N 5/W 4 from the site datum (see previous discussion).

A6. Cultural Constituents: (Describe and quantify artifacts, ecofacts, cultural residues, etc., not associated with features)
2 utilized flakes, 6 flakes, 3,786.0 g of marine shell, 12.6 g of ochre, 4.9 g of bone (refer to attached table).

A7. Were Specimens Collected? No Yes (if yes, attach Artifact Record or catalog)

A8. Site Condition: Good Fair Poor (Describe disturbances): Site was previously graded and covered with 20-70 cm of bulldozed sediment. Previous MacArthur Blvd. construction (1930s) also impacted the eastern side of the site, possibly removing a portion of the site. The majority of the site was bulldozed during recent widening of MacArthur Blvd.

ARCHAEOLOGICAL SITE RECORD (PART 2)
California Department of Parks and Recreation
Office of Historic Preservation

Primary #: _____
Trinomial: CA-ORA-1461

Page 4 of 9

A9. Nearest Water: (Type, distance, and direction) Small drainage approximately 50 m south.

A10. Elevation: 200 ft

A11. Environmental Setting: (Describe vegetation, fauna, soils, geology, landform, slope, aspect, exposure, etc., as appropriate)

Site is located along the southern edge of a low ridge in an area of uplifted Pleistocene sandy marine terrace deposits. Area is covered with coastal sage/chaparral.

A12. Historical Information: (Note sources and provide full citations in Field A15 below)

None.

A13. Age: Prehistoric Pre-Colonial (1500-1769) Spanish/Mexican (1769-1848)
 Early American (1848-1880) Turn of Century (1880-1914)
 Early 20th Century (1914-1945) Post WWII (1945+) Undetermined
Factual or estimated dates of occupation (explain):

Prehistoric midden deposits.

A14. Remarks and Interpretations: (Discuss scientific, interpretive, ethnic, and other values of site, if known)

Due to the size of the site, the small number of artifacts and previous disturbances, this site contains little additional scientific value.

A15. References: (Give full citations including the names and addresses of any persons interviewed, if possible)

Strudwick, McCawley and Sturm. 1996. Results of Archaeological Testing at Sites CA-ORA-167/1117 and CA-ORA-1461, for MacArthur Boulevard Widening, City of Newport Beach, California. LSA Associates, Inc.

A16. Photographs: (List camera format, lens focal length, film type and speed, subjects, and accession numbers or attach a Photograph Record)

See attached photo log.

A17. Form Prepared By: I. Strudwick **Date:** June 30, 1996

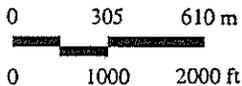
Affiliation and address: LSA Associates, Inc.; One Park Plaza, Suite 500; Irvine, CA 92614

Project No.: DEI630

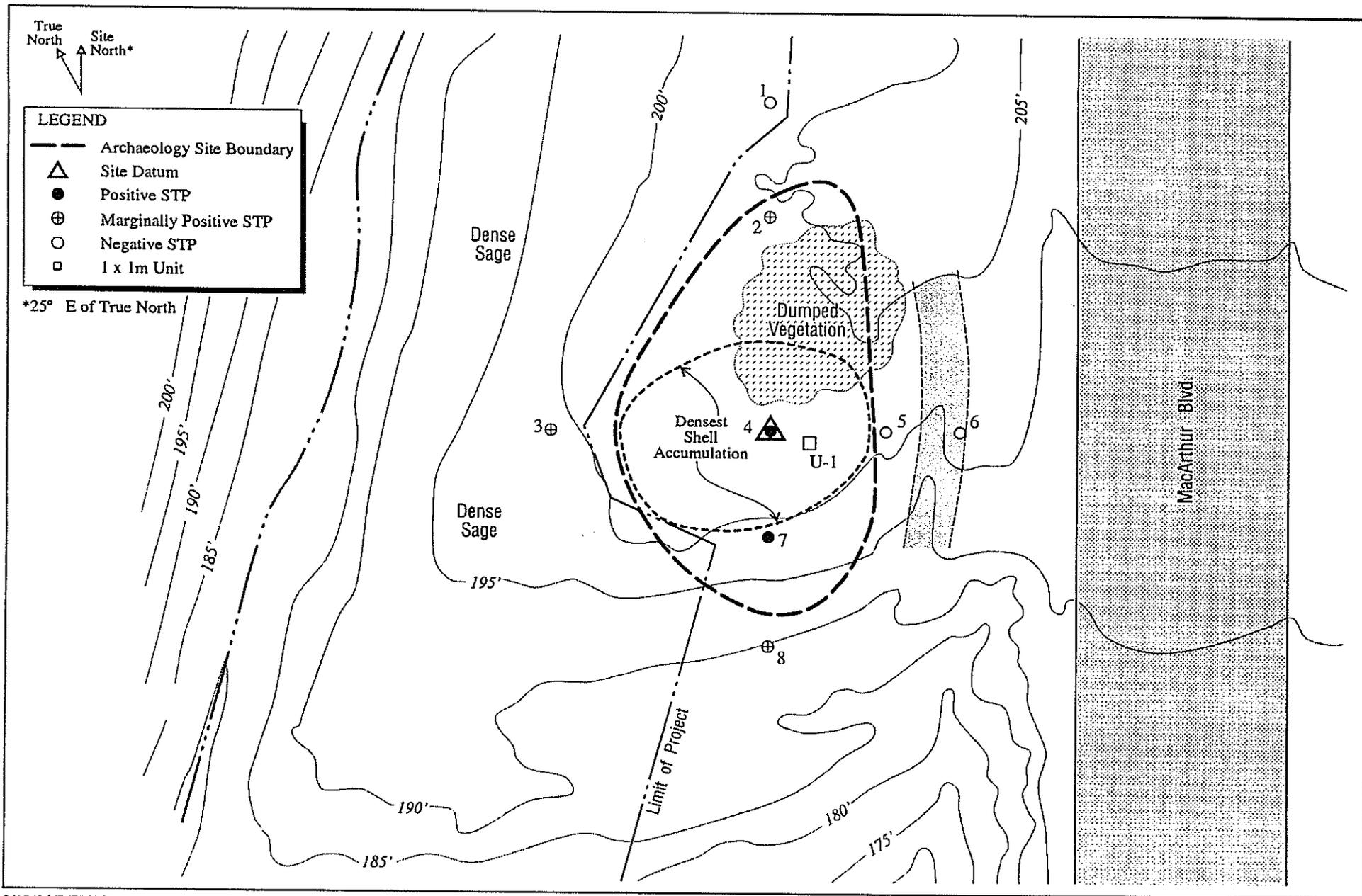


8/13/96(DEI630)

Figure



Project Location



8/13/96(DEI630)

Figure



ORA-1461 Site Map
Showing Location of Shovel
Test Pits (STPs) and Excavation Units

TABLE 1
CA-ORA-1461 (MBW-S-1)
SUMMARY OF CULTURAL MATERIAL BY PROVENIENCE

	Total Depth (cm)	STP					STP Total	Unit 1 (50)	Total
		2 (100)	3 (40)	4 (100)	7 (40)	8 (40)			
Utilized Flake	--	--	--	--	--	--	2	2	
Flake	--	--	1	--	--	1.0	5	6	
Bone*	--	--	0.2	--	--	0.2	4.7	4.9	
Ochre*	--	--	--	--	--	--	12.6	12.6	
Shell*	5.0	0.3	590.3	38.0	6.0	639.6	3,146.4	3,786.0	
Marine Shell Species									
Scientific/Class	Common								
<i>Argopecten</i> sp.	Pecten	--	0.2	238.2	11.3	--	249.7	1,115.6	1,365.3
<i>Chione</i> sp.	Venus	4.8	--	187.6	15.2	0.9	208.5	1,014.6	1,223.1
<i>Ostrea lurida</i>	Native Cal. Oyster	--	0.1	134.2	2.9	0.1	137.3	519.8	657.1
<i>Polinices</i> sp.	Moon Shell	--	--	2.4	8.1	4.1	14.6	211.6	226.2
<i>Astraea undosa</i>	Wavy Turban	--	--	1.6	--	0.9	2.5	139.3	141.8
<i>Mytilus</i> sp.	Mussel	--	--	20.9	0.5	--	21.4	52.2	73.6
<i>Saxidomus nuttall</i>	Washington Clam	--	--	--	--	--	--	28.4	28.4
<i>Macoma</i> sp.	Macoma	--	--	--	--	--	--	0.5	0.5
<i>Crucibulum spinosum</i>	Cup & Saucer Limpet	--	--	0.1	--	--	0.1	0.6	0.7
<i>Protothaca staminea</i>	Pacific Littleneck	--	--	0.2	--	--	0.2	3.5	3.7
<i>Cerithiidea californica</i>	Calif. Horn Shell	--	--	--	--	--	--	0.3	0.3
<i>Haliotis</i> sp.	Abalone	--	--	--	--	--	--	21.7	21.7
<i>Amiantis callosa</i>	White Venus	0.2	--	--	--	--	0.2	--	0.2
<i>Crepidula</i> sp.	Slipper Shell	--	--	2.7	--	--	2.7	16.1	18.8
<i>Balanus</i> sp.	Barnacle	--	--	--	--	--	--	2.6	2.6
<i>Tegula</i> sp.	Top Shell	--	--	--	--	--	--	0.3	0.3
Amphineura	Chiton	--	--	0.5	--	--	0.5	5.7	6.2
Unidentified	Unidentified	--	--	1.9	--	--	1.9	13.6	15.5

* weight in grams

PHOTOGRAPHIC RECORD

CALIFORNIA Department of Parks and Recreation
Office of Historic Preservation

Primary # _____
Trinomial/HRI # ORA-167/1117 & ORA-1461

Page ___ of ___

Property or Project Name/Temporary No.: MacArthur Blvd. Widening Test

Camera Format: Scotch Box Lens Size: 50 mm

Film Type and Speed: 35 mm; 400 ASA Year: 1996

Negatives kept at: LSA Associates, Inc., 1 Park Plaza, Ste. 500, Irvine, CA 92714 Roll #: DEI630-1

Mo.	Day	Time	Neg.	Subject/Description	Facing	Accession #
5	15	1430	27	*View of ORA-167/1117 from ORA-1461 (MBW-S-1)	S	
5	15	1430	26	*Riparian area between sites	SW	
5	15	1430	25	*Looking at Brooks in STP N.0/W.20 -ORA-1461, from datum	W	
5	15	1440	24	ORA-1461 looking at midden near datum (right of buildings)	N	
5	15	1445	23	ORA-1461, STP N.0/E.0 (datum) showing stratigraphy	NE	
5	15	1445	22	ORA-1461, STP N.0/E.0 (datum) showing stratigraphy	NE	
5	16	1330	21	ORA-1461 prior to backhoeing	NE	
5	16	1330	20	ORA-1461 showing backhoe removing overburden	NE	
5	16	1330	19	ORA-1461 showing backhoe removing overburden	NE	
5	16	1330	18	ORA-1461 showing backhoe removing overburden	NE	
5	16	1330	17	ORA-1461 showing backhoe removing overburden	NE	
5	17	930	16	ORA-167/1117 Unit 1. Crew: Curt Duke, Brooks Smith, Daniel Cutrone	NNE	
5	17	930	15	ORA-167/1117 Unit 1. Crew: Curt Duke, Brooks Smith, Daniel Cutrone	N	
5	17	1500	14	ORA-1461 (MBW-S-1), Unit 1, Feature 1 at 20 cm	N	
5	17	1500	13	ORA-1461 (MBW-S-1), Unit 1, Feature 1 at 20 cm	N	
5	17	1500	12	ORA-1461 (MBW-S-1), Unit 1, Feature 1 at 20 cm	N	
5	17	1500	11	ORA-1461 (MBW-S-1) showing relationship of Unit 1 to ridge	SW	
5	20	1000	10	ORA-1461 (MBW-S-1), Unit 1, Feature 1 at 30 cm	N	
5	20	1030	9	ORA-1461 (MBW-S-1), Unit 1, Feature 1 at 30 cm	N	
5	20	1030	8	ORA-167/1117, Unit 1, west wall profile at 70 cm	W	
5	20	1030	7	ORA-167/1117, Unit 1, west wall profile at 70 cm	W	
5	20	1030	6	ORA-167/1117, Unit 1, west wall profile at 70 cm	W	
5	20	1257	5	ORA-1461 (MBW-S-1), Unit 1, Feature 1 at 40 cm	W	
5	20	1257	4	ORA-1461 (MBW-S-1), Unit 1, Feature 1 at 40 cm	W	
5	20	1257	3	ORA-1461 (MBW-S-1), Unit 1, Feature 1 at 40 cm	W	
5	20	1257	2	ORA-1461 (MBW-S-1), Unit 1, Feature 1 at 40 cm	NW	
5	20	1257	1	ORA-1461 (MBW-S-1), Unit 1, Feature 1 at 40 cm	NW	
				*Panorama		

APPENDIX B

NATIVE AMERICAN CONSULTATION

NATIVE AMERICAN CONSULTATION RECORD FOR THE CITY OF NEWPORT BEACH (CITY)

February 16, 2009 to April 20, 2009

Newport Beach City Hall and Park Development Project

Date LSA Requested Sacred Lands File Search: February 4, 2009

Date Native American Heritage Commission Replied: February 9, 2009

Results of Sacred Lands File Search: Failed to indicate the presence of Native American cultural resources in the project vicinity, but recommended that LSA contact the groups/individuals listed below.

Groups Contacted	Date City Sent Letter to Tribes	Date and Results of Follow-up Telephone Calls and/or Emails made by LSA on behalf of the City
Juaneño Band of Mission Indians Acjacheman Nation David Belardes, Chairperson Juaneño	02-16-09	03-02-09: Joyce Perry in Cultural Resources left a voicemail indicating that the Tribe definitely wants to participate in consultation because of the extreme sensitivity of the project area for cultural resources and human remains. She also stated that the Tribe has information to share, but that information must remain confidential. 04-01-09: The Initial Study/Notice of Preparation was sent to the Tribe by email. 04-16-09 A meeting between the City and Ms. Perry and Mr. Belardes was held per the Tribe's request. The parties present discussed the project's impacts to cultural resources and the City's efforts at resource protection. 04-20-09: A copy of the testing report was emailed to the Mr. Belardes and Ms. Perry.
Gabrielino/Tongva San Gabriel Band of Mission Indians Anthony Morales, Chairperson Gabrielino Tongva	02-16-09	03-18-09: Mr. Morales stated that he has worked in the general project area before and considers it to be very sensitive for cultural resources due to its proximity to the coast and the number of known archaeological sites in the vicinity. He recommended monitoring by an archaeologist and Native American during construction, and requested continued participation in the consultation process. He would also like to be notified of any discoveries. 04-01-09: The Initial Study/Notice of Preparation was sent to the Mr. Morales by email. However, the email was unsuccessful and a hard copy was sent on 04-09-09.
Gabrielino Tongva Nation Sam Dunlap, Tribal Secretary Gabrielino Tongva	02-16-09	03-18-09: Mr. Dunlap had just received the letter and stated he would review the information and comment. Shortly after that conversation, Mr. Dunlap telephoned to say that he had reviewed the letter, definitely wants to participate in the consultation process, and will send formal written comments as soon as he is able. 04-01-09: The Initial Study/Notice of Preparation was sent to Mr. Dunlap by email.
Juaneño Band of Mission Indians Acjacheman Nation Anthony Rivera, Chairman Juaneño	02-16-09	03-18-09: A voice mail was left for Mr. Rivera. 03-24-09: A Tribal administrator requested that the letter be sent again to him by email and he would forward the information to Chairman Rivera. The administrator stated that the Tribe definitely wants to be involved in the consultation and will likely respond.

Groups Contacted	Date City Sent Letter to Tribes	Date and Results of Follow-up Telephone Calls and/or Emails made by LSA on behalf of the City
<p>Juaneño Band of Mission Indians Sonia Johnston, Tribal Chairperson Juaneño</p>	<p>02-16-09</p>	<p>03-26-09: The letter was emailed to the address provided by the administrator. 03-27-09: Mr. Rivera responded in a letter sent by email. The letter stated that the Tribe is very concerned about impacts to cultural resources and recommends monitoring by a designated Tribal monitor during all ground disturbing activities. 04-01-09: The Initial Study/Notice of Preparation was sent to the Tribe by email. 03-18-09: Ms. Johnston stated that she did not receive the letter and the name of the person that signed for the letter on the certified mail receipt was not familiar to her. She requested that the information be sent again by email and she will review it and comment. The email was sent on 03-18-09. 04-01-09: The Initial Study/Notice of Preparation was sent to Ms. Johnston by email. 04-20-09: A copy of the testing report was emailed to Ms. Johnston.</p>

February 4, 2009

Dave Singleton
Native American Heritage Commission
915 Capitol Mall, Room 364
Sacramento, CA 95814

Subject: Local Government Tribal Consultation List and Sacred Lands File Search Request for a Proposed City Hall and Parking Structure, City of Newport Beach, Orange County, California

Dear Mr. Singleton:

Attached please find a portion of one United States Geological Survey (USGS) 7.5-minute topographic quadrangle map. Plotted on the map is the location where the City of Newport Beach (City) is proposing to build a new city hall and parking structure. Specifically, the project is situated in Township 6 South, Range 10 West, in Irvine Ranch Section 93 of the *Laguna Beach, California* USGS topographic quadrangle map (San Bernardino Baseline and Meridian). A map showing the project area is attached.

This project requires an amendment to the City's General Plan. On behalf of the City, and in compliance with Senate Bill 18 (Burton 2004), LSA is requesting a Tribal Consultation List and a Sacred Lands File search for this project area. There will be ground disturbance associated with this project. Please notify us of any Traditional Cultural Properties (TCPs) and/or sacred sites that may be impacted.

I will anticipate a response within 10 working days from your receipt of this request. Thank you very much for your assistance. If you have any questions or comments, please contact me at (949) 553-0666 or you may email me at terri.fulton@lsa-assoc.com.

Best Regards,

LSA ASSOCIATES, INC.



Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

Attachments: Portion of one USGS map

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

117°52'30" R 10 W R 9 W 420 LOS ANGELES 44 MI. SANTA ANA 9 MI. 421000m E 422 50' 423
33°37'30"

3720000m N

LONG BEACH 23 MI
NEWPORT BLVD CALIF 50.3 4 MI

T 6 S
PASI III NW
(NEWPORT BEACH)

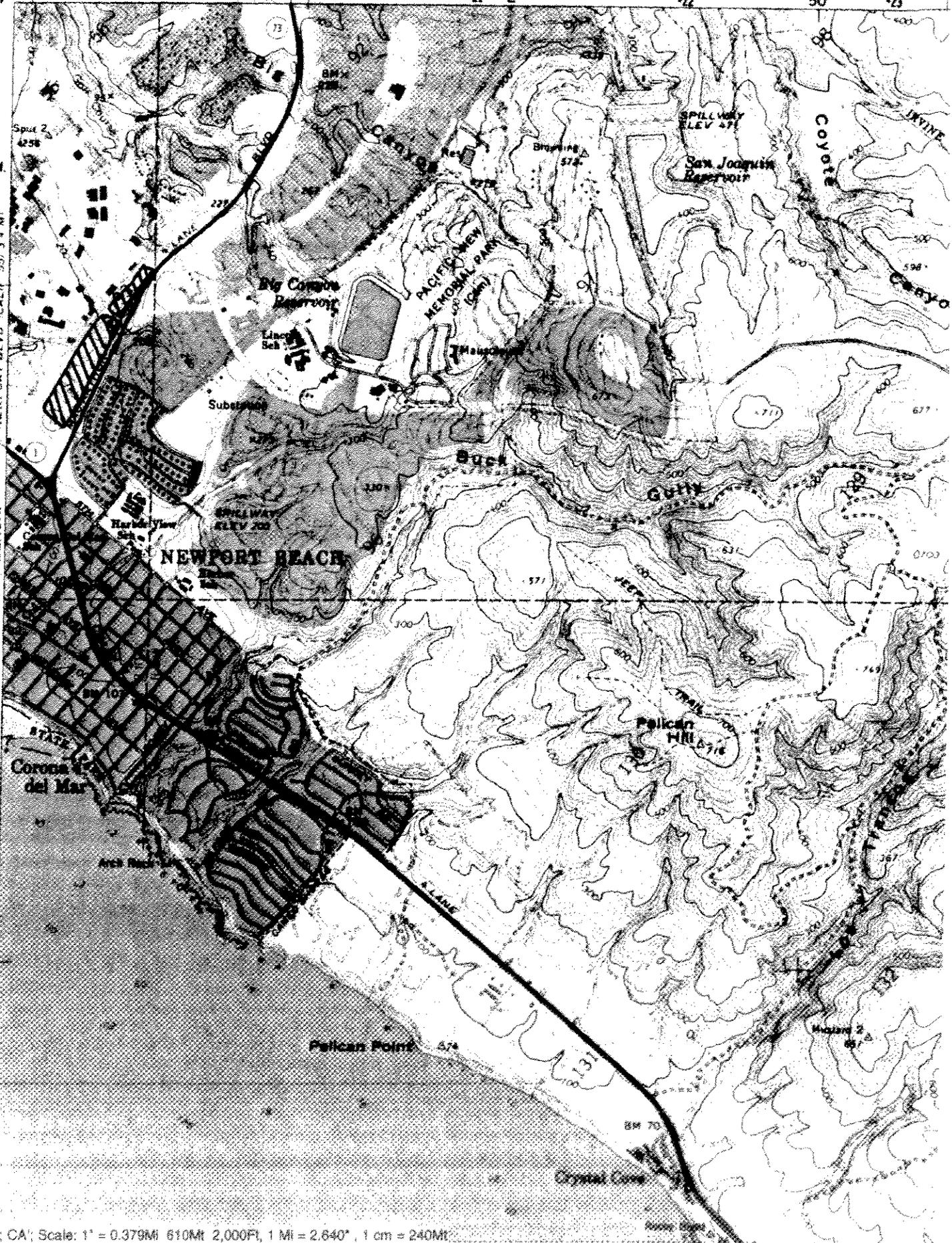
T 7 S

417

35'

3716

415



TRANSMISSION VERIFICATION REPORT

TIME : 02/04/2009 11:32
NAME :
FAX :
TEL :
SER. # : 000C5J225683

DATE, TIME	02/04 11:31
FAX NO./NAME	NAHC
DURATION	00:01:03
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 964
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



February 9, 2009

Ms. Teri Fulton, Archaeologist/Senior Cultural Resources Manager
LSA ASSOCIATES on behalf of the
CITY OF NEWPORT BEACH
20 Executive Park, Suite 200
Irvine, CA 92614

Sent by FAX to: 949-553-8076
Number of pages: 2

Re: Tribal Consultation Per SB 18 (Government Code §§ 65352.3, 65352.4 and 65562.5) and Sacred Lands File Search for Project- General Plan Amendment for Proposed City Hall and Parking Structure: located in the City of Newport Beach, Orange County, California

Dear Ms. Fulton:

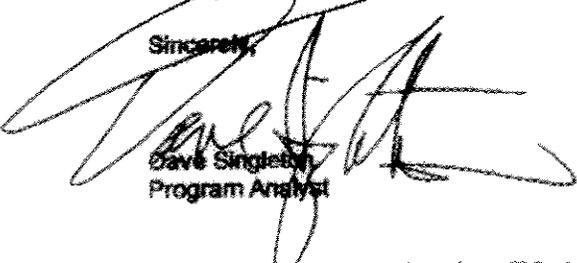
Government Code §§ 65352.3, 65352.4 and 65562.5 requires local governments to consult with California Native American tribes identified by the Native American Heritage Commission (NAHC) for the purpose of protecting, and/or mitigating impacts to cultural places. Attached is a Native American Tribal Consultation list of tribes with traditional lands or cultural places located within the requested project boundaries, 'area of potential effect' (APE).

As a part of consultation, the NAHC recommends that local governments conduct record searches through the NAHC and California Historic Resources Information System (CHRIS contact 916/653-7278 or www.ohp.ca.gov) to determine if any cultural places are located within the area(s) affected by the proposed action.

A NAHC Sacred Lands File search was conducted based on the township, range, and section information included in your request and no sites were found within the area of potential effect you identified. However, local governments should be aware that records maintained by the NAHC and CHRIS are not exhaustive, and a negative response to these searches does not preclude the existence of a cultural place. A tribe may be the only source of information regarding the existence of a cultural place. I suggest you consult with all of those on the accompanying Native American Contacts list, which has been included separately. If they cannot supply information, they might recommend others with specific knowledge about cultural resources in your plan area. If a response has not been received within two weeks of notification, the Commission requests that you follow-up with a telephone call to ensure that the project information has been received.

If you receive notification of change of addresses and phone numbers from Tribes, please notify me. With your assistance we are able to assure that our consultation list contains current information. If you have any questions, please contact me at (916) 653-6251.

Sincerely,



Dave Singleton
Program Analyst

Attachment Native American Tribal Consultation List

**Native American Tribal Consultation List
Orange County
February 9, 2009**

Juaneno Band of Mission Indians Acjachemen Nation
David Belardes, Chairperson
32161 Avenida Los Amigos Juaneno
San Juan Capistrano , CA 92675
DavidBelardes@hotmail.com
(949) 493-0959

Gabrieleno/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson
PO Box 693 Gabrielino Tongva
San Gabriel , CA 91778
(626) 286-1632
(626) 286-1758 - Home
(626) 483-3564 cell

Gabrielino Tongva Nation
Sam Dunlap, Tribal Secretary
P.O. Box 88908 Gabrielino Tongva
Los Angeles , CA 90086
samdunlap@earthlink.net

(909) 262-9351 - cell

Juaneno Band of Mission Indians Acjachemen Nation
Anthony Rivera, Chairman
31411-A La Matanza Street Juaneno
San Juan Capistrano , CA 92675-2674
arivera@juaneno.com
949-488-3484
949-488-3294 Fax

Juanefio Band of Mission Indians
Sonia Johnston, Tribal Chairperson
P.O. Box 25628
Santa Ana , CA 92799 Juaneno
sonia.johnston@sbcglobal.net
(714) 323-8312

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5087.54 of the Public Resources Code and Section 5087.96 of the Public Resources Code.

This list is applicable only for consultation with Native American tribes under Government Code Section 65362.3.



CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT

Stephen G. Badum, Director

February 16, 2009

Juaneno Band of Mission Indians Acjachemen Nation
Anthony Rivera, Chairman
31411-A La Matanza Street
San Juan Capistrano, CA 92675-2674

Subject: Native American Consultation for the City of Newport Beach City Hall Master Plan, City of Newport Beach, Orange County, California

Dear Mr. Rivera:

The City of Newport Beach (City) invites your participation in consultation regarding the City of Newport Beach City Hall Master Plan (City Hall Master Plan). The project is located at 1300 Avocado Avenue near Fashion Island on a parcel measuring approximately 12 acres. The City is proposing to construct a new city hall, parking structure, and public park at this location. The project site is rectangular and is bounded on the east by MacArthur Boulevard, on the north by the Orange County Transportation Authority Newport Transportation Center, on the west by Avocado Avenue, and on the south by the Newport Beach Public Library and commercial offices. A map of the project location is attached. The City will be serving as the lead agency. All work is being conducted per the guidelines of the California Environmental Quality Act.

Natural Resources Policy NR 18.3 of the City's General Plan states that Native American organizations be notified of "proposed developments that have the potential to adversely impact cultural resources." The results of a records search conducted by the South Central Coastal Information Center (SCCIC) located at California State University, Fullerton, indicate that there are two sites located within the proposed project boundaries: CA-ORA-167/1117 and CA-ORA-1461. CA-ORA-167/1117 is a shell midden/shellfish processing site that was tested by LSA Associates, Inc. (LSA) in 1996 (Strudwick et al). CA-ORA-1461 is a small shell midden/shellfish processing site where a human burial associated with two hearth features was discovered during construction monitoring (Strudwick et al 1996). The burial was exposed, recorded, and removed by LSA in the presence of the Native American Most Likely Descendent (MLD), as determined by the Native American Heritage Commission (NAHC). Per MLD request, the burial was later reinterred at an undisclosed location off site.

In addition to the records search at the SCCIC, the NAHC was contacted to perform a Sacred Lands File Search (SLF) for the City Hall Master Plan. The results of the SLF were negative. However, the NAHC provided your name as someone who may have information regarding cultural resources that could be impacted by the project. As such, the City is requesting your input. If you provide any sensitive information about cultural resources, that information will be kept confidential and will not be divulged to the public unless otherwise agreed upon.

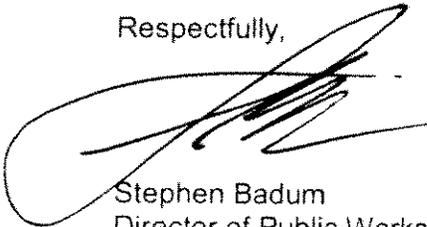
If you have information, questions, or comments regarding this project, please address them to Terri Fulton of LSA. Ms. Fulton is serving as the City's point of contact for Native American consultation for the City Hall Master Plan, although a City employee contact can be provided if you wish. You may contact Ms. Fulton by phone, email, or letter. Her contact information is below

3300 Newport Boulevard · Post Office Box 1768 · Newport Beach, California 92658-8915
Telephone: (949) 644-3311 · Fax: (949) 644-3318 · www.city.newport-beach.ca.us

Terri Fulton
Archaeologist/Native American Consultation
LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614
Phone: 949-553-0666
Email: terri.fulton@lsa-assoc.com

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Respectfully,



Stephen Badum
Director of Public Works

Attachment: Location Map

References:

Strudwick, Ivan H., William McCawley, and Bradley L. Sturm
1996 Archaeological Testing at CA-ORA-167/1117 and CA-ORA-1461, Newport Beach, Orange County, California, on file, South Central Coastal Information Center, California State University, Fullerton.



LSA

LEGEND

-  Project Boundary
-  1 Mile Buffer

RECORD SEARCH MAP



Newport Beach City Hall Master Plan
Record Search

SOURCE: USGS 7.5min Quad (Foster (1981), Newport Beach (1981), Laguna Beach (1981)); City of Newport Beach (1991)
FILE: C:\B09001\GIS\CumwrtSearchMap.mxd (12/2/99)



CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT

Stephen G. Badum, Director

February 16, 2009

Juaneno Band of Mission Indians Acjachemen Nation
Sonia Johnston, Tribal Chairperson
P.O. Box 25628
Santa Ana, CA 92799

Subject: Native American Consultation for the City of Newport Beach City Hall Master Plan, City of Newport Beach, Orange County, California

Dear Ms. Johnston:

The City of Newport Beach (City) invites your participation in consultation regarding the City of Newport Beach City Hall Master Plan (City Hall Master Plan). The project is located at 1300 Avocado Avenue near Fashion Island on a parcel measuring approximately 12 acres. The City is proposing to construct a new city hall, parking structure, and public park at this location. The project site is rectangular and is bounded on the east by MacArthur Boulevard, on the north by the Orange County Transportation Authority Newport Transportation Center, on the west by Avocado Avenue, and on the south by the Newport Beach Public Library and commercial offices. A map of the project location is attached. The City will be serving as the lead agency. All work is being conducted per the guidelines of the California Environmental Quality Act.

Natural Resources Policy NR 18.3 of the City's General Plan states that Native American organizations be notified of "proposed developments that have the potential to adversely impact cultural resources." The results of a records search conducted by the South Central Coastal Information Center (SCCIC) located at California State University, Fullerton, indicate that there are two sites located within the proposed project boundaries: CA-ORA-167/1117 and CA-ORA-1461. CA-ORA-167/1117 is a shell midden/shellfish processing site that was tested by LSA Associates, Inc. (LSA) in 1996 (Strudwick et al). CA-ORA-1461 is a small shell midden/shellfish processing site where a human burial associated with two hearth features was discovered during construction monitoring (Strudwick et al 1996). The burial was exposed, recorded, and removed by LSA in the presence of the Native American Most Likely Descendent (MLD), as determined by the Native American Heritage Commission (NAHC). Per MLD request, the burial was later reinterred at an undisclosed location off site.

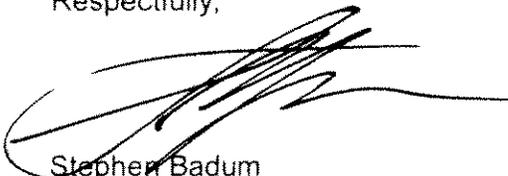
In addition to the records search at the SCCIC, the NAHC was contacted to perform a Sacred Lands File Search (SLF) for the City Hall Master Plan. The results of the SLF were negative. However, the NAHC provided your name as someone who may have information regarding cultural resources that could be impacted by the project. As such, the City is requesting your input. If you provide any sensitive information about cultural resources, that information will be kept confidential and will not be divulged to the public unless otherwise agreed upon.

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Respectfully,

A handwritten signature in black ink, appearing to read 'Stephen Badum', written over a horizontal line.

Stephen Badum
Director of Public Works

Attachment: Location Map

References:

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1996 Archaeological Testing at CA-ORA-167/1117 and CA-ORA-1461, Newport Beach, Orange County, California, on file, South Central Coastal Information Center, California State University, Fullerton.



LSA

LEGEND

-  Project Boundary
-  1 Mile Buffer

RECORD SEARCH MAP



SOURCE: USGS 7.5-minute Quad (Tustin (1987), Newport Beach (1987), Laguna Beach (1987), City of Newport Beach (1988))
 L:\N\0901\GIS\1_ultra\SearchMap.mxd (2/1/08)

Newport Beach City Hall Master Plan

Record Search



CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT

Stephen G. Badum, Director

February 16, 2009

Gabrielino Tongva Nation
Sam Dunlap, Tribal Secretary
P.O. Box 86908
Los Angeles, CA 90086

Subject: Native American Consultation for the City of Newport Beach City Hall Master Plan, City of Newport Beach, Orange County, California

Dear Mr. Dunlap:

The City of Newport Beach (City) invites your participation in consultation regarding the City of Newport Beach City Hall Master Plan (City Hall Master Plan). The project is located at 1300 Avocado Avenue near Fashion Island on a parcel measuring approximately 12 acres. The City is proposing to construct a new city hall, parking structure, and public park at this location. The project site is rectangular and is bounded on the east by MacArthur Boulevard, on the north by the Orange County Transportation Authority Newport Transportation Center, on the west by Avocado Avenue, and on the south by the Newport Beach Public Library and commercial offices. A map of the project location is attached. The City will be serving as the lead agency. All work is being conducted per the guidelines of the California Environmental Quality Act.

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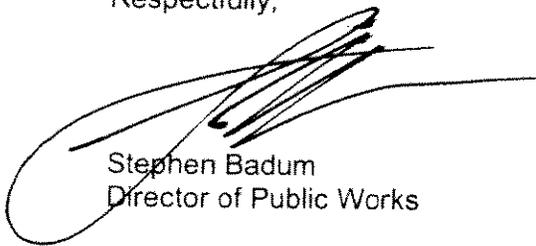
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LSA

LEGEND

-  Project Boundary
-  1 Mile Buffer

RECORD SEARCH MAP



SOURCE: (SIS) 1. Irwin Quad.; (Laso) (1981); Newport Beach (1981); Laguna Beach (1981); City of Newport Beach (1991)
 I:\CNB0901\GIS\4\Plans\SearchMap.mxd 12/2/09

Newport Beach City Hall Master Plan

Record Search



CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT

Stephen G. Badum, Director

February 16, 2009

Gabrieleno/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson
P.O. Box 693
San Gabriel, CA 91778

Subject: Native American Consultation for the City of Newport Beach City Hall Master Plan, City of Newport Beach, Orange County, California

Dear Mr. Morales:

The City of Newport Beach (City) invites your participation in consultation regarding the City of Newport Beach City Hall Master Plan (City Hall Master Plan). The project is located at 1300 Avocado Avenue near Fashion Island on a parcel measuring approximately 12 acres. The City is proposing to construct a new city hall, parking structure, and public park at this location. The project site is rectangular and is bounded on the east by MacArthur Boulevard, on the north by the Orange County Transportation Authority Newport Transportation Center, on the west by Avocado Avenue, and on the south by the Newport Beach Public Library and commercial offices. A map of the project location is attached. The City will be serving as the lead agency. All work is being conducted per the guidelines of the California Environmental Quality Act.

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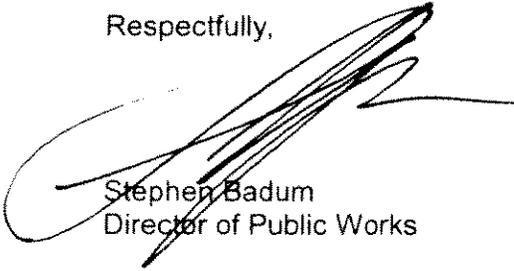
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Respectfully,

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Stephen Badum
Director of Public Works

Attachment: Location Map

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LSA

LEGEND

-  Project Boundary
-  1 Mile Buffer

RECORD SEARCH MAP



SOURCE: LSA/S 7.5min (Good) (1981); Newport Beach (1981); Laguna Beach (1981); City of Newport Beach (1989)
 I. C. NBBP01 GIS-CulturalSearchMap.mxd (2/1/09)

Newport Beach City Hall Master Plan
 Record Search



CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT

Stephen G. Badum, Director

February 16, 2009

Juaneno Band of Mission Indians Acjachemen Nation
David Belardes, Chairperson
32161 Avenida Los Amigos
San Juan Capistrano, CA 92675

Subject: Native American Consultation for the City of Newport Beach City Hall Master Plan, City of Newport Beach, Orange County, California

Dear Mr. Belardes:

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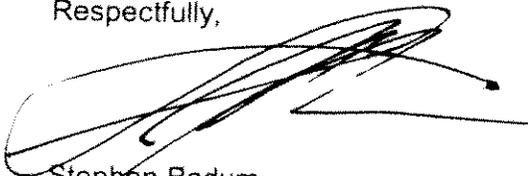
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Stephen Badum
Director of Public Works

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LSA

LEGEND

-  Project Boundary
-  1 Mile Buffer

RECORD SEARCH MAP



SOURCE: USGS 7.5-min. Quad. 7-F1000 (1987); Newport Beach (1987); Laguna Beach (1987); City of Newport Beach (1987)
 (UNB\HW\GIS\CulturalSearchMap.mxd (12/5/09))

Newport Beach City Hall Master Plan

Record Search

CERTIFIED MAIL - RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 5.90 each	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To: Juaneño Band of Mission Indians
 Sonia Johnston, Chairperson
 P.O. Box 25628
 Santa Ana CA, 92799
 CNB0901

PS Form 3800, June 2002

CERTIFIED MAIL - RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To: Juaneno Band of Mission Indians
 Acjacheman Nation
 David Belardes, Chairperson
 32161 Avenida Los Amigos
 San Juan Capistrano, CA 92675
 CNB0901

PS Form 3800

U.S. Postal Service - CERTIFIED MAIL - RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To: Gabrielino Tongva Nation
 Sam Dunlap, Tribal Secretary
 P.O. Box 86908
 Los Angeles CA, 90086
 CNB0901

PS Form 3800, June 2002

U.S. Postal Service - CERTIFIED MAIL - RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To: Gabrieleño/Tongva San Gabriel Band of Mission Indians
 Anthony Morales, Chairperson
 P.O. Box 693
 San Gabriel CA, 91778
 CNB0901

PS Form 3800, June 2002

U.S. Postal Service - CERTIFIED MAIL - RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To: Juaneño Band of Mission Indians Acjacheman Nation
 Anthony Rivera, Chairman
 31411-A La Matanza Street
 San Juan Capistrano CA, 92675-2674
 CNB0901

PS Form 3800

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Juaneño Band of Mission Indians Acjachemen Nation
 Anthony Rivera, Chairman
 31411-A La Matanza Street
 San Juan Capistrano CA, 92675-2674 CNB0901

2. Article Number (Transfer from service label) **7004 1160 0000 1130 6347**

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X **BRENDA GASTON** Agent Addressee

B. Received by (Printed Name) Agent Addressee
 C. Date of Delivery **2/26/09**

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No
7502

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Gabrielino Tongva Nation
 Sam Dunlap, Tribal Secretary
 P.O. Box 86908
 Los Angeles CA, 90086 CNB0901

2. Article Number (Transfer from service label) **7004 1160 0000 1130 6378**

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X **Sam Dunlap** Agent Addressee

B. Received by (Printed Name) Agent Addressee
 C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
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Juaneño Band of Mission Indians
 Sonia Johnston, Chairperson
 P.O. Box 25628
 Santa Ana CA, 92799
 CN80901

A. Signature: *[Signature]* Agent Addressee
 X Addressed

B. Received by (Printed Name): *[Signature]*
 C. Date of Delivery: _____

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type:
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label) 7004 1160 0000 1130 6361

PS Form 3811, February 2004 Domestic Return Receipt 102585-02-M-1540

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
 Print your name and address on the reverse so that we can return the card to you.
 Attach this card to the back of the mailpiece, or on the front if space permits.

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Juaneno Band of Mission Indians
 Acjacheman Nation
 David Belardes, Chairperson
 32161 Avenida Los Amigos
 San Juan Capistrano, CA 92675

A. Signature: *[Signature]* Agent Addressee
 X Addressed

B. Received by (Printed Name): *[Signature]*
 C. Date of Delivery: 2-26-09

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type:
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label) 7004 1160 0000 1130 6365

PS Form 3811, February 2004 Domestic Return Receipt 102585-02-M-1540

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Gabrieleño/Tongva San Gabriel Band of Mission Indians
 Anthony Morales, Chairperson
 P.O. Box 693
 San Gabriel CA, 91778
 CN80901

A. Signature: *[Signature]* Agent Addressee
 X Addressed

B. Received by (Printed Name): *[Signature]*
 C. Date of Delivery: FEB 27 2009

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type:
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label) 7004 1160 0000 1130 6354

PS Form 3811, February 2004 Domestic Return Receipt 102585-02-M-1540

LSA Telephone Conversation Log

Date: March 18, 2009

Contact: Anthony Morales, Gabrieleno/Tongva San Gabriel Band of Mission Indians

Subject: Consultation for the Newport Beach City Hall and Park Development Plan (LSA Project No. CNB0901)

Mr. Morales stated that he has worked in the general project area before and considers it to be very sensitive for cultural resources due to its proximity to the coast and the number of known archaeological sites in the vicinity. He recommended monitoring by an archaeologist and Native American during construction, and requested continued participation in the consultation process. He would also like to be notified of any discoveries.

By: TPF

LSA Telephone Conversation Log

Date: March 18, 2009
Contact: Sam Dunlap, Gabrieleno/Tongva San Gabriel Band of Mission Indians
Subject: Consultation for the Newport Beach City Hall and Park Development Plan (LSA Project No. CNB0901)

Mr. Dunlap stated that he reviewed the letter, definitely wants to participate in the consultation process, and will send formal written comments as soon as he is able.

By: TPF

LSA Telephone Conversation Log

Date: March 18, 2009

Contact: Sonia Johnston, Juaneño Band of Mission Indians

Subject: Consultation for the Newport Beach City Hall and Park Development Plan (LSA Project No. CNB0901)

Ms. Johnston stated that she did not receive the letter and the name of the person who signed the certified mail receipt was not familiar to her. She requested that the information be sent again by email. She also requested a copy of the testing report.

By: TPF

Terri Fulton

From: Terri Fulton
Sent: Wednesday, March 18, 2009 4:05 PM
To: 'sonia.johnston@sbcglobal.net'
Subject: City of Newport Beach City Hall Master Plan
Attachments: CulturalSearchMap.pdf

Hi Sonia,

Below is the text of the letter that was sent to you via certified mail. I'm sorry you did not receive it. I have also attached a map of the project area. (Note that the map reflects the records search area; the actual project is outlined right in the middle of the circle.) Please send your comments to me, or call me with your concerns.

Best,

Terri

February 16, 2009

Subject: Native American Consultation for the City of Newport Beach City Hall Master Plan, City of Newport Beach, Orange County, California

Dear Ms. Johnston:

The City of Newport Beach (City) invites your participation in consultation regarding the City of Newport Beach City Hall Master Plan (City Hall Master Plan). The project is located at 1300 Avocado Avenue near Fashion Island on a parcel measuring approximately 12 acres. The City is proposing to construct a new city hall, parking structure, and public park at this location. The project site is rectangular and is bounded on the east by MacArthur Boulevard, on the north by the Orange County Transportation Authority Newport Transportation Center, on the west by Avocado Avenue, and on the south by the Newport Beach Public Library and commercial offices. A map of the project location is attached. The City will be serving as the lead agency. All work is being conducted per the guidelines of the California Environmental Quality Act.

City Policy 4.5.1-3 of the General Plan Update Environmental Impact Report states that Native American organizations be notified of "proposed developments that have the potential to adversely impact cultural resources." The results of a records search conducted by the South Central Coastal Information Center (SCCIC) located at California State University, Fullerton, indicate that there are two sites located within the proposed project boundaries: CA-ORA-167/1117 and CA-ORA-1461. CA-ORA-167/1117 is a shell midden/shellfish processing site that was tested by LSA Associates, Inc. (LSA) in 1996 (Strudwick et al). CA-ORA-1461 is a small shell midden/shellfish processing site where a human burial associated with two hearth features was discovered during construction monitoring (Strudwick et al 1996). The burial was exposed, recorded, and removed by LSA in the presence of the Native American Most Likely Descendent (MLD), as determined by the Native American Heritage Commission (NAHC). Per MLD request, the burial was later reinterred at an undisclosed location off site.

In addition to the records search at the SCCIC, the NAHC was contacted to perform a Sacred Lands File Search (SLF) for the City Hall Master Plan. The results of the SLF were negative. However, the NAHC provided your name as someone who may have information regarding cultural resources that could be impacted by the project. As such, the City is requesting your input. If you provide any sensitive information about cultural resources, that information will be kept confidential and will not be divulged to the public unless otherwise agreed upon.

If you have information, questions, or comments regarding this project, please address them to Terri Fulton of LSA. Ms. Fulton is serving as the City's point of contact for Native American consultation for the City Hall Master Plan, although a City employee contact can be provided if you wish. You may contact Ms. Fulton by phone, email, or letter. Her contact

4/27/2009

information is below.

Terri Fulton
Archaeologist/Native American Consultation
LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614
Phone: 949-553-0666
Email: terri.fulton@lsa-assoc.com

Your participation in the local planning process is important to the City. If you should wish to enter into formal consultation for the City Hall Master Plan, please contact Ms. Fulton as soon as possible, but no later than 90 days after you receive this letter. In order to ensure that you have ample opportunity to consult, Ms. Fulton will also follow up with a telephone call if we do not hear from you in the near future. Thank you for your time and input.

Respectfully,

Stephen Badum
Director of Public Works

Attachment: Location Map

References:

Strudwick, Ivan H., William McCawley, and Bradley L. Sturm
1996 Archaeological Testing at CA-ORA-167/1117 and CA-ORA-1461, Newport Beach, Orange County, California,
on file, South Central Coastal Information Center, California State University, Fullerton.

Terri Fulton

From: Terri Fulton
Sent: Thursday, March 26, 2009 1:01 PM
To: 'nbanda@juaneno.com'
Cc: 'Terri Fulton'
Subject: SB18 consultation letter, Newport Beach
Attachments: Rivera letter, City of Newport Beach.pdf

Hello,

Attached is the letter we spoke about regarding SB18 consultation for the City of Newport Beach City Hall Master Plan. I have noted that the Tribe requested to be involved in the consultation per our conversation on Tuesday, March 24, 2009. Please respond to this letter with comments at your earliest convenience. You may do so by email, mail or phone.

Thank you!

Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
Phone (949) 553-0666
Fax (949) 553-8076
Wireless (949) 337-5454
terri.fulton@lsa-assoc.com

Terri Fulton

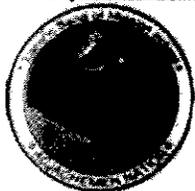
From: Jim Rivera [jrivera@juaneno.com]
Sent: Friday, March 27, 2009 3:15 PM
To: Terri Fulton
Cc: 'Chairman Rivera'; 'Nathan Banda'
Subject: Response_NPB City Hall Master Plan
Attachments: LSA_City Hall Master Plan_NPB.pdf

Terri,

Please accept the Tribe's response to your request under SB18. We are looking forward to working with LSA regarding this project. Thank you,

Jim Rivera

Assistant to Chairman
Juaneño Band of Mission Indians,
Acjachemen Nation
31411-A La Matanza Street
San Juan Capistrano, CA 92675
Ph: 949-488-3484
Cell: 949-335-2054
Fx: 949-488-3294
jrivera@juaneno.com
www.juaneno.com





**JUANEÑO BAND OF MISSION INDIANS
ACJACHEMEN NATION**

Tribal Council

Anthony Rivera, Jr. • Chairman Fran Yorba • Vice Chair

Nathan K. Banda • Secretary / Treasurer

Chris M. Lobo • Member at Large Cecilia V. Martinez • Member at Large

March 27, 2009

Terri Fulton, Archaeologist
LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614

**Re: Native American Consultation for the City of Newport Beach City Hall Master Plan,
City of Newport Beach, Orange County, CA.**

The Juaneño Band of Mission Indians, Acjachemen Nation (the "Tribe"), a State-recognized Native American Indian Tribe, and the indigenous people of Orange County and surrounding areas including but not limited to the proposed project areas wish to consult and comment on possible impacts on our Cultural Resources of the above named project to determine that our concerns are being addressed appropriately. This area of Newport Beach has cultural value to the Tribe due to the Tribe's occupancy of territory located within the project site (CA-ORA-167/1117 and CA-ORA-1461). We seek to work together to determine areas of concern and identify avoidance, minimization, monitoring, or mitigation measures that would support reducing impacts result for the project regarding our cultural resources.

The Tribe has established cultural and professional experts who engage in consultation and who review all compliance relating to our territory and culture. We also have trained and certified Native American Monitors who are qualified to monitor construction and archaeological activities through our tribal company Native Environmental Solutions, LLC (NES). We wish to express our utmost concern for any potential impacts upon Juaneño cultural and natural resources, as well as disturbances to ancestral burials grounds, artifacts, and traditional, cultural and natural properties that may occur due to ground disturbance or construction activities. To guard against the disturbance of Juaneño cultural resources and burials, we recommend that Juaneño monitors from NES be utilized to monitor any project construction, ground disturbing, and below surface activities.

In conclusion, the Tribe is a State-recognized Tribe, designated as the "Governing Body" of the Acjachemen Nation by the U.S. Department of Interior, and a licensed and insured tribal corporation and therefore has authority to consult on behalf of the Tribe. Again, the Tribe wishes to work cooperatively with the Lead Agency to accomplish the goals of the project. Thank you for contacting the Tribe and we look forward to consulting with you soon. Please contact me via

Page 2

email at arivera@juaneno.com or contact Jim Rivera, Project Manager at jrivera@juaneno.com or (949) 335-2054 with any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "Anthony Rivera, Jr." with a stylized, cursive script.

Anthony Rivera, Jr.
Tribal Chairman
Juaneño Band of Mission Indians,
Acjachemen Nation
949.488.3484
arivera@juaneno.com

Terri Fulton

From: Terri Fulton
Sent: Wednesday, April 01, 2009 3:18 PM
To: DavidBelardes@hotmail.com; Joyce Perry
Cc: Terri Fulton
Subject: FW: City Hall NOP and IS
Attachments: NOP and Initial Study.pdf

Hi David and Joyce,

Here is the Initial Study for the Newport Beach City Hall Master Plan for your review. Please let me know if you would like a hard copy and we will be happy to provide it.

Best Regards,

Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
Phone (949) 553-0666
Fax (949) 553-8076
Wireless (949) 337-5454
terri.fulton@lsa-assoc.com

From: Nicole Dubois
Sent: Wednesday, April 01, 2009 2:38 PM
To: Terri Fulton
Subject: City Hall NOP and IS

Terri,

Please find a copy of the Notice of Preparation (NOP) and Initial Study (IS) for the proposed Newport Beach City Hall and Park Development Plan attached to this email.

If you have any questions, please let me know.

Thank you!

Nicole Dubois
LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
(949) 553-0666 - telephone
(949) 553-8076 - fax
nicole.dubois@lsa-assoc.com

4/27/2009

Terri Fulton

From: Terri Fulton
Sent: Wednesday, April 01, 2009 3:20 PM
To: 'sam dunlap'
Subject: FW: City Hall NOP and IS
Attachments: NOP and Initial Study.pdf

Hi Sam,

Here is the Initial Study for the Newport Beach City Hall Master Plan for your review. Please let me know if you would like a hard copy and we will be happy to provide it.

Best Regards,

Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
Phone (949) 553-0666
Fax (949) 553-8076
Wireless (949) 337-5454
terri.fulton@lsa-assoc.com

From: Nicole Dubois
Sent: Wednesday, April 01, 2009 2:38 PM
To: Terri Fulton
Subject: City Hall NOP and IS

Terri,

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If you have any questions, please let me know.

Thank you!

Nicole Dubois
LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
(949) 553-0666 - telephone
(949) 553-8076 - fax
nicole.dubois@lsa-assoc.com

4/27/2009

Terri Fulton

From: Terri Fulton
Sent: Wednesday, April 01, 2009 3:23 PM
To: 'Chairman Rivera'; Jim Rivera
Cc: 'Nathan Banda'; Terri Fulton
Subject: FW: City Hall NOP and IS
Attachments: NOP and Initial Study.pdf

Gentlemen,

Here is the Initial Study for the Newport Beach City Hall Master Plan for your review. Please let me know if you would like a hard copy and we will be happy to provide it.

Best Regards,

Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

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20 Executive Park, Suite 200
Irvine, CA 92614-4731
Phone (949) 553-0666
Fax (949) 553-8076
Wireless (949) 337-5454
terri.fulton@lsa-assoc.com

From: Nicole Dubois
Sent: Wednesday, April 01, 2009 2:38 PM
To: Terri Fulton
Subject: City Hall NOP and IS

Terri,

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If you have any questions, please let me know.

Thank you!

Nicole Dubois
LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
(949) 553-0666 - telephone
(949) 553-8076 - fax
nicole.dubois@lsa-assoc.com

4/27/2009

Terri Fulton

From: Terri Fulton
Sent: Wednesday, April 01, 2009 3:23 PM
To: chiefrbwife@aol.com
Cc: Terri Fulton
Subject: FW: City Hall NOP and IS
Attachments: NOP and Initial Study.pdf

Anthony,

Here is the Initial Study for the Newport Beach City Hall Master Plan for your review. Please let me know if you would like a hard copy and we will be happy to provide it.

Best Regards,

Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
Phone (949) 553-0666
Fax (949) 553-8076
Wireless (949) 337-5454
terri.fulton@lsa-assoc.com

From: Nicole Dubois
Sent: Wednesday, April 01, 2009 2:38 PM
To: Terri Fulton
Subject: City Hall NOP and IS

Terri,

Please find a copy of the Notice of Preparation (NOP) and Initial Study (IS) for the proposed Newport Beach City Hall and Park Development Plan attached to this email.

If you have any questions, please let me know.

Thank you!

Nicole Dubois
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20 Executive Park, Suite 200
Irvine, CA 92614-4731
(949) 553-0666 - telephone
(949) 553-8076 - fax
nicole.dubois@lsa-assoc.com

Terri Fulton

From: Terri Fulton
Sent: Wednesday, April 01, 2009 3:24 PM
To: sonia.johnston@sbcglobal.net
Cc: Terri Fulton
Subject: FW: City Hall NOP and IS
Attachments: NOP and Initial Study.pdf

Hi Sonia,

Here is the Initial Study for the Newport Beach City Hall Master Plan for your review. Please let me know if you would like a hard copy and we will be happy to provide it.

Best Regards,

Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
Phone (949) 553-0666
Fax (949) 553-8076
Wireless (949) 337-5454
terri.fulton@lsa-assoc.com

From: Nicole Dubois
Sent: Wednesday, April 01, 2009 2:38 PM
To: Terri Fulton
Subject: City Hall NOP and IS

Terri,

Please find a copy of the Notice of Preparation (NOP) and Initial Study (IS) for the proposed Newport Beach City Hall and Park Development Plan attached to this email.

If you have any questions, please let me know.

Thank you!

Nicole Dubois
LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
(949) 553-0666 - telephone
(949) 553-8076 - fax
nicole.dubois@lsa-assoc.com

Terri Fulton

From: Jim Rivera [rivera@juaneno.com]
Sent: Thursday, April 02, 2009 4:53 PM
To: Terri Fulton
Subject: RE: City Hall NOP and IS

Hey Thank you Terri. We will keep in touch on this.

Respectfully, Jim

From: Terri Fulton [mailto:Terri.Fulton@lsa-assoc.com]
Sent: Wednesday, April 01, 2009 3:23 PM
To: Chairman Rivera; Jim Rivera
Cc: Nathan Banda; Terri Fulton
Subject: FW: City Hall NOP and IS

Gentlemen,

Here is the Initial Study for the Newport Beach City Hall Master Plan for your review. Please let me know if you would like a hard copy and we will be happy to provide it.

Best Regards,

Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
Phone (949) 553-0666
Fax (949) 553-8076
Wireless (949) 337-5454
terri.fulton@lsa-assoc.com

From: Nicole Dubois
Sent: Wednesday, April 01, 2009 2:38 PM
To: Terri Fulton
Subject: City Hall NOP and IS

Terri,

Please find a copy of the Notice of Preparation (NOP) and Initial Study (IS) for the proposed Newport Beach City Hall and Park Development Plan attached to this email.

If you have any questions, please let me know.

Thank you!

Nicole Dubois
LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
(949) 553-0666 - telephone
(949) 553-8076 - fax
nicole.dubois@lsa-assoc.com

4/27/2009

TRANSMITTAL

TO: Anthony Morales
Gabrieleno/Tongva
San Gabriel Band of Mission Indians
309 South Walnut Grove Ave
San Gabriel, CA 91776
Newport Beach City Hall
PROJECT: Master Plan
PROJECT NUMBER: CNB0901

DATE: April 09, 2009
 FOR YOUR REVIEW FOR YOUR FILES
 AT YOUR REQUEST FOR YOUR INFORMATION
 FOR YOUR APPROVAL DISTRIBUTION
SUBJECT: Notice of Preparation/Initial Study

ITEMS BELOW ARE TRANSMITTED: HERewith UNDER SEPARATE COVER VIA: _____

DATE	COPIES	DESCRIPTION
<u>04-09-09</u>	<u>1 ea</u>	<u>Notice of Preparation</u>
_____	_____	<u>Initial Study</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

GENERAL REMARKS:

Hi Anthony,

Per your request, here are hard copies of the Newport Beach City Hall Master Plan Notice of Preparation and Initial Study for your review. These documents were originally sent by email (attached) on Wednesday, April 1, 2009. Please let me know if you need anything else.

Best Regards,

Terri

COPIES TO: _____

BY: TPF

Terri Fulton

From: Joyce Perry [kaamalam@gmail.com]
Sent: Tuesday, April 14, 2009 12:29 PM
To: Terri Fulton
Subject: Re: City Hall NOP and IS

Mii Terri,

Yes, David and I are confirming April 16th 3:30pm. Please advise address. Thanks Joyce

----- Original Message -----

From: Terri Fulton
To: Joyce Perry
Sent: Monday, April 13, 2009 2:58 PM
Subject: RE: City Hall NOP and IS

I just heard back from the City. Can you and David make a meeting on April 16 at 3:30?

T.

From: Joyce Perry [mailto:kaamalam@gmail.com]
Sent: Mon 4/6/2009 12:15 PM
To: Terri Fulton
Subject: Re: City Hall NOP and IS

April 14th, 15th or 16th after 12noon. Thanks

----- Original Message -----

From: Terri Fulton
To: Joyce Perry
Sent: Monday, April 06, 2009 11:23 AM
Subject: RE: City Hall NOP and IS

Hi again,

Sorry to keep bothering you with this, but we are wondering if you can name a couple of specific dates and times for the week of April 13 that would work out best for you both. If there are no preferences and you are pretty much open, we can let the City come up with the date. Also, do you want to do a site visit or meet at the City offices?

Thanks.

From: Joyce Perry [mailto:kaamalam@gmail.com]
Sent: Monday, April 06, 2009 10:00 AM
To: Terri Fulton
Subject: Re: City Hall NOP and IS

Mii Terri,

I am responding to your voice mail regarding meeting with the City of Newport. The week of the 13th is good for David and I. talk later teach peace Joyce

----- Original Message -----

From: Terri Fulton
To: DavidBelardes@hotmail.com ; Joyce Perry

Cc: Terri Fulton
Sent: Wednesday, April 01, 2009 3:18 PM
Subject: FW: City Hall NOP and IS

Hi David and Joyce,

Here is the Initial Study for the Newport Beach City Hall Master Plan for your review. Please let me know if you would like a hard copy and we will be happy to provide it.

Best Regards,

Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
Phone (949) 553-0666
Fax (949) 553-8076
Wireless (949) 337-5454
terri.fulton@lsa-assoc.com

From: Nicole Dubois
Sent: Wednesday, April 01, 2009 2:38 PM
To: Terri Fulton
Subject: City Hall NOP and IS

Terri,

Please find a copy of the Notice of Preparation (NOP) and Initial Study (IS) for the proposed Newport Beach City Hall and Park Development Plan attached to this email.

If you have any questions, please let me know.

Thank you!

Nicole Dubois
LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
(949) 553-0666 - telephone
(949) 553-8076 - fax
nicole.dubois@lsa-assoc.com

MEETING SUMMARY
NATIVE AMERICAN CONSULTATION WITH THE
JUANEÑO BAND OF MISSION INDIANS ACJACHEMEN NATION
FOR THE
CITY OF NEWPORT BEACH CITY HALL MASTER PLAN
APRIL 16, 2009

At the request of the Juaneño Band of Mission Indians Acjachemen Nation (Tribe), a meeting was held at the City of Newport Beach (City) offices as part of the Native American consultation process for the City of Newport Beach City Hall Master Plan (Project). The purpose of the meeting was to discuss the project and address any concerns the Tribe has regarding the project and its potential to impact cultural resources. The meeting was held on Thursday, April 16, 2009, from approximately 3:45 to 4:45 p.m.

Attendees

Juaneño Band of Mission Indians Acjachemen Nation: David Belardes, and Joyce Perry

City of Newport Beach: David Lepo and Jaime Murillo

C.W.Driver: William Hahn

LSA Associates, Inc.: Steve Conkling, Nicole Dubois, and Terri Fulton

Summary

The meeting began with a Project overview provided by LSA. The location of two previously recorded sites within the property was discussed, as was the history of disturbance in the Project area. The Tribe was concerned about potential impacts to the sites during construction. LSA and the City discussed the layout of the Project and what areas were likely to be impacted the most. LSA and the City also illustrated how the project proposes to cap sensitive areas with fill and utilize them as open space. Only minimal excavation in the sensitive areas is included in the project design. The City emphasized that monitoring by an archaeologist and Native American would be required throughout construction when ground-disturbing activities are in native soil.

Conclusion

The Tribe stated that the meeting had been very informative and they appreciated the opportunity to speak with the City, as well as the City's efforts to protect cultural resources. They look forward to working with all participants and requested that they remain informed throughout the process in order to be of assistance. The City thanked the Tribe for coming and assured them that their input is very important and will be considered as part of the planning process.

The meeting was formally concluded at approximately 4:45.

Action Items

- A copy of an archaeological site testing report for the property that was prepared by LSA in 1996 will be provided to the Tribe.

Terri Fulton

From: Terri Fulton
Sent: Monday, April 20, 2009 2:44 PM
To: Steve Conkling
Cc: Terri Fulton
Subject: City of Newport Beach City Hall Specific Plan
Attachments: Archaeological Testing Report.pdf

Here is a pdf of the report to forward to Sonia.

Terri Fulton

From: Terri Fulton
Sent: Monday, April 20, 2009 2:47 PM
To: 'Joyce Perry'; 'DavidBelardes@hotmail.com'
Cc: Terri Fulton
Subject: Newport Beach City Hall Specific Plan
Attachments: Archaeological Testing Report.pdf

Hello - It was very nice to see you both last Thursday! Here is a copy of the testing report that you requested for your review. Please let me know if you need anything else.

Best Regards,

Terri

NATIVE AMERICAN CONSULTATION RECORD FOR THE CITY OF NEWPORT BEACH (CITY)

June 8, 2009 to August 14, 2009

Newport Beach City Hall and Park Development Project

Distribution of Initial Study/Notice of Preparation per NAHC Response

Date Native American Heritage Commission responded to receiving the CEQA NOP: May 4, 2009
Results of Sacred Lands File Search: Failed to indicate the presence of Native American cultural resources in the project vicinity, but recommended that LSA contact the groups/individuals listed below *in addition to* those contacted previously.

Groups Contacted	Date City Sent Letter to Tribes	Date and Results of Follow-up Telephone Calls made by LSA on behalf of the City
Gabrielino-Tongva Tribe Felicia Sheerman, Tribal Councilwoman Gabrielino Tongva	Not applicable for this group.	04-08-09: In response to the City's issuance of the project Notice of Preparation and Initial Study reports, the Tribe sent a letter to the City requesting construction monitoring because archaeological resources could possibly be impacted. Specifically, they requested monitoring by a Tribally approved monitor. Please see attached letter.
Ti'At Society Cindi Alvitre Gabrielino	06-08-09	06-15-09: A detailed voicemail was left for Ms. Alvitre. To date, no response has been received. 06-30-09: The NOP packet was returned as "unclaimed".
Tongva Ancestral Territorial Tribal Nation John Tommy Rosas, Tribal Administrator Gabrielino Tongva	06-10-09 (via email)	06-10-09: Mr. Rosas confirmed that he received the NOP email and a formal response is forthcoming. 06-26-09: Mr. Rosas responded by email to state that he objects to the project due to the high sensitivity of the area for cultural and other resources. He requested direct consultation with the City. 06-26-09 to 08-14-09: The City and LSA Associates, Inc. have responded to comments conveyed by Mr. Rosas via telephone and email communication. Offers to meet and discuss his concerns have also been extended by the City and LSA. Please see attached records. Consultation is ongoing.
Juaneño Band of Mission Indians Alfred Cruz, Cultural Resources Coordinator Juaneño	06-08-09	06-15-09: A detailed voicemail was left for Mr. Cruz. To date, no response has been received.
Juaneño Band of Mission Indians Adolph 'Bud' Sepulveda, Vice Chairperson Juaneño	06-08-09	06-15-09: There was no answer at the number provided by the NAHC, so an email follow up was sent. Please see attached email. To date, no response has been received.

Groups Contacted	Date City Sent Letter to Tribes	Date and Results of Follow-up Telephone Calls made by LSA on behalf of the City
Juaneño Band of Mission Indians Anita Espinoza Juaneño	06-08-09	06-15-09: Ms. Espinoza stated that she received the NOP and will possibly comment after she has reviewed the information. 06-18-09: Ms. Espinoza called to say that she has reviewed the material and does consider the area to be sensitive for cultural resources. She would like to be kept informed of any discoveries, and recommends monitoring by a Native American and an archaeologist subsequent to any discoveries.
United Coalition to Protect Pamhe (UCPP) Rebecca Robles Juaneño	06-08-09	06-15-09: Ms. Robles stated that she received the NOP and will likely comment after she has time to review the information. To date, no response has been received.



GABRIELINO-TONGVA TRIBE

A California Indian Tribe historically known as San Gabriel Band of Mission Indians

501 Santa Monica Blvd., Ste. 500, Santa Monica, CA 90401-2490
www.gabrielinotribe.org • tel: (310) 587-2203 • fax: (310) 587-2281

April 6, 2009

Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Beach
Newport Beach, CA 92658-8915

RECEIVED BY
PLANNING DEPARTMENT

APR 08 2009

CITY OF NEWPORT BEACH

Reference: Newport Beach City Hall & Park Development Plan
Native American Monitoring/Most Likely Descendant

Dear Jaime:

The Environmental Impact Report for the above referenced project states the project has potentially significant impacts to archaeological resources, paleontological resources and burial sites. Due to the fact that the proposed project is in a cultural sensitive area it is our concern that the City of Newport Beach appoints Native American Monitors from the largest faction of the Tribe to represent this project.

We are the largest faction of the Gabrielino-Tongva Tribe, with over 85% of descendants of the historic Gabrielino Tribe. We have approximately 1,600 members and the next largest faction has less than 150 members. A membership Table is enclosed to help guide you through the various factions of the Tribe.

We strongly recommend the City of Newport Beach hire Native American monitors approved by our faction. The contact information for the six approved six monitors is enclosed. Their work is arranged through our administrative headquarters which is staffed fulltime.

The Tribe has had continuing problems in the past with Native American monitors that are not approved by the Tribe, including Anthony Morales, Sam Dunlap & Robert Dorame.

Native American Monitoring projects under the supervision of monitors not approved by our Tribe have been delayed, have caused controversy, and have lead to difficult inter- and intra-tribal relationships.

In particular, the above stated individuals and other Most Likely Descendents misrepresent our Tribe by failing to consult with our Tribe on sensitive archaeological findings and reburial issues. These controversies have been extremely painful for our elders who were not invited to participate in reburials for our ancestors.

Tribal Council

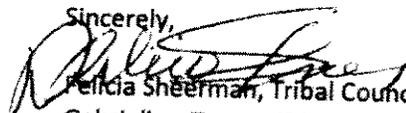
Hon. Bernie Acuna
Hon. Charles Alvarez
Hon. Linda Candelaria

Hon. Martha Gonzalez Lemos
Hon. Felicia Sheerman

Tribal Administrator: Barbara Garcia
Tribal Controller: Steven K. Johnson

Please also see the attached most updated NA Contact List from the Native American Heritage Commission. We're requesting the City of Newport Beach in making the ethical choice in selecting a Native American Monitor/MLD for your project.

Sincerely,


Felicia Sheerman, Tribal Councilwoman
Gabrielino-Tongva Tribe

Enclosures



From left to right: Councilman Charles Alvarez, Councilwoman Linda Candelaria, Councilwoman Martha Gonzalez, Councilwoman Felicia Sheerman, Councilman Bernie Acuna

Name of Tribal Faction (Updated on January 29, 2009)	Class B Members (BIA documentation)	Class C Members (no documentation)
Gabrielino-Tongva Tribe, a California Indian Tribe historically known as San Gabriel Band of Mission Indians (www.gabrielinotribe.org) (1630 members, 85.7% of all members)	646 (87 %)	984 (85%)
Gabrielino/Tongva Nation (Sam Dunlap, Virginia Carmelo, www.tongvatribenet.net) (238 members, 12.5% of all members)	65 (9%)	173 (15%)
Gabrielino-Tongva Indians of San Gabriel Band, (Anthony Morales, www.tongva.com) (28 members, 1.5% of all members)	28 (4%)	None (0%)
Beaumont Group (no formal name, no website) (6 members, 0.32% of all members)	None (0%)	6 (1/2%)
Coastal Gabrielinos & Dieguenos (no formal name, no website)	Unknown	Unknown
Totals (1902 All Members)	739 (100%)	1163 (100%)

List of Approved Native American Monitors/Most Likely Descendant

- 1) Robert Dominguez
- 2) Bernie Acuna
- 3) Charles Alvarez
- 4) Linda Candelaria
- 5) Martha Gonzalez Lemos
- 6) Felicia Sheerman

Please use the following contact information for all Monitors:

Gabrielino-Tongva Tribe
501 Santa Monica Blvd, Suite 500
Santa Monica, CA 90401
Phone: (310) 587-2203
Cell: (310) 428-7720
Fax: (310) 587-2281

Most Likely Descendant Approved by the Native American Heritage Commission:

Bernie Acuna, Gabrielino-Tongva, Most Likely Descendant

Please use the following contact information for MLD:

Gabrielino-Tongva Tribe
501 Santa Monica Blvd, Suite 500
Santa Monica, CA 90401
Phone: (310) 587-2203
Cell: (310) 428-7720
Fax: (310) 587-2281

Native American Contact
Los Angeles County
March 26, 2009

Ti'At Society
Cindi Alvitre
6515 E. Seaside Walk, #C
Long Beach, CA 90803
calvitre@yahoo.com
(714) 504-2468 Cell
Gabrielino

Gabrielino Tongva Indians of California Tribal Council
Robert Dorame, Tribal Chair/Cultural Resources
P.O. Box 490
Bellflower, CA 90707
gtongva@verizon.net
562-761-6417 - voice
562-925-7989 - fax
Gabrielino Tongva

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.
tattnlaw@gmail.com
310-570-6567
Gabrielino Tongva

Gabrielino-Tongva Tribe
Felicia Sheerman
501 Santa Monica Blvd, # 500
Santa Monica, CA 90401
(310) 587-2203
(310) 428-7720 - cell
(310) 587-2281
fsherman1@GabrielinoTribe.
Gabrielino

Gabrielino/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson
PO Box 693
San Gabriel, CA 91778
(828) 286-1262 -FAX
(626) 286-1632
(626) 286-1758 - Home
(626) 286-1262 Fax
Gabrielino Tongva

Gabrielino Tongva Nation
Sam Dunlap, Tribal Secretary
P.O. Box 86908
Los Angeles, CA 90086
samdunlap@earthlink.net
Gabrielino Tongva

(909) 262-9351 - cell

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5007.84 of the Public Resources Code and Section 5007.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed Telecommunications Facility Project No. IE26736-A, located in the City of Walnut, Los Angeles County, California for which a Sacred Lands File search and Native American Contacts list were requested.

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
 (916) 653-6251
 Fax (916) 657-5390
 Web Site www.nahc.ca.gov
 e-mail: ds_nahc@pacbell.net



May 4, 2009

MAY 03 2009

Mr. Jaime Murillo, Planner
CITY OF NEWPORT BEACH
 3300 Newport Boulevard
 Newport Beach, CA 92685-8915

CITY OF NEWPORT BEACH

Re: SCH#2009041010: CEQA Notice of Preparation (NOP): draft Environmental Impact Report (DEIR) for The Newport Beach City Hall and Park Development Plan Project located in the City of Newport Beach, Orange County, California

Dear Mr. Murillo:

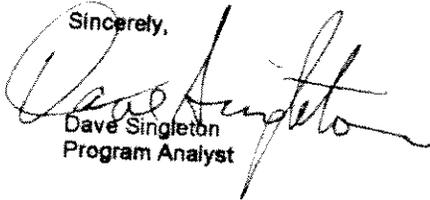
The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 designated to protect California's Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the 2007 CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

- ✓ Contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur. Contact information for the Information Center nearest you is available from the State Office of Historic Preservation (916/653-7278) <http://www.ohp.parks.ca.gov>. The record search will determine:
 - If a part of the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded in or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ 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.
 - 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.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- ✓ The Native American Heritage Commission (NAHC) performed:
 - A Sacred Lands File (SLF) search of the project 'area of potential effect (APE)': The results: No known Native American Cultural Resources were identified within one-half mile of the 'area of potential effect' (APE). However, there are Native American cultural resources in close proximity to the APE. The NAHC urges caution with any ground-breaking activity. Also, the NAHC SLF is not exhaustive and local tribal contacts should be consulted from the attached list and there are Native American cultural resources in close proximity..
 - The NAHC advises the use of Native American Monitors, also, when professional archaeologists or the equivalent are employed by project proponents, in order to ensure proper identification and care given cultural resources that may be discovered. The NAHC, FURTHER, recommends that contact be made with Native American Contacts on the attached list to get their input on potential IMPACT of the project (APE) on cultural resources. In some cases, the existence of a Native American cultural resource may be known only to a local tribe(s) or Native American individuals or elders.
 - ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
 - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f).

- In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
- Again, a culturally-affiliated Native American tribe may be the only source of information about a Sacred Site/Native American cultural resource.
 - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
 - √ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.
 - CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave items.
 - √ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.
 - √ Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

**Native American Contact
Orange County
May 4, 2009**

Ti'At Society
Cindi Alvitre
6515 E. Seaside Walk, #C
Long Beach , CA 90803
calvitre@yahoo.com
(714) 504-2468 Cell

Gabrielino

Gabrielino Tongva Nation
Sam Dunlap, Tribal Secretary
P.O. Box 86908
Los Angeles , CA 90086
samdunlap@earthlink.net

Gabrielino Tongva

(909) 262-9351 - cell

Juaneno Band of Mission Indians Acjachemen Nation
David Belardes, Chairperson
32161 Avenida Los Amigos
San Juan Capistrano , CA 92675
DavidBelardes@hotmail.com
(949) 493-0959
(949) 493-1601 Fax

Juaneno

Juaneno Band of Mission Indians Acjachemen Nation
Anthony Rivera, Chairman
31411-A La Matanza Street
San Juan Capistrano , CA 92675-2674
arivera@juaneno.com
949-488-3484
949-488-3294 Fax

Juaneno

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.
tattnlaw@gmail.com
310-570-6567

Gabrielino Tongva

Juaneno Band of Mission Indians
Alfred Cruz, Culural Resources Coordinator
P.O. Box 25628
Santa Ana , CA 92799
alfredgcruz@sbcglobal.net
714-998-0721
sifredgcruz@sbcglobal.net

Juaneno

Gabrieleno/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson
PO Box 693
San Gabriel , CA 91778
(828) 286-1262 -FAX
(626) 286-1632
(626) 286-1758 - Home
(626) 286-1262 Fax

Gabrielino Tongva

Juaneno Band of Mission Indians
Adolph 'Bud' Sepulveda, Vice Chairperson
P.O. Box 25828
Santa Ana , CA 92799
bssepul@yahoo.net
714-838-3270
714-914-1812 - CELL
bsepul@yahoo.net

Juaneno

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009041010: CEQA Notice of Preparation (NOP) and draft draft Environmental Impact Report (DEIR) for the Newport Beach City Hall and Park Development Plan Project, located in the City of Newport Beach, Orange County, California.

Native American Contact
Orange County
May 4, 2009

Juanefio Band of Mission Indians
Sonia Johnston, Tribal Chairperson
P.O. Box 25628 Juaneno
Santa Ana , CA 92799
sonia.johnston@sbcglobal.net
(714) 323-8312

Juaneno Band of Mission Indians
Anita Espinoza
1740 Concerto Drive Juaneno
Anaheim , CA 92807
(714) 779-8832

United Coalition to Protect Panhe (UCPP)
Rebecca Robles
119 Avenida San Fernando Juaneno
San Clemente , CA 92672
(949) 573-3138

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009041010; CEQA Notice of Preparation (NOP) and draft draft Environmental Impact Report (DEIR) for the Newport Beach City Hall and Park Development Plan Project; located in the City of Newport Beach; Orange County, California.



CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT

Stephen G. Badum, Director

June 3, 2009

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Administrator

Subject: Native American Consultation for the Proposed Newport Beach City Hall and Park Development Plan, City of Newport Beach, Orange County, California

Dear Mr. Rosas:

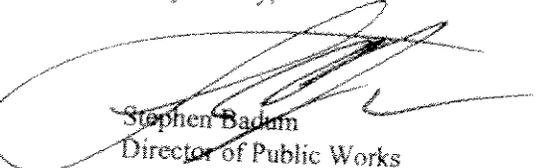
Attached please find a copy of the Notice of Preparation (NOP) and Initial Study (IS) for the proposed Newport Beach City Hall and Park Development Plan. The City of Newport Beach (City) is proposing to construct a new City Hall, parking structure, and public park on an approximate 20-acre (ac), rectangular-shaped project site. The project site is located west of MacArthur Boulevard and east of Avocado Avenue and includes the existing Newport Beach Public Library (Library). A portion of the project is located north of San Miguel Drive. A map of the project location is attached. Pursuant to Public Resources Code Section 21165 and the Guidelines for the California Environmental Quality Act (State CEQA Guidelines) Section 15050, the City is the Lead Agency responsible for preparation of an Environmental Impact Report (EIR) addressing potential impacts associated with the proposed Newport Beach City Hall and Park Development Plan Project.

The Native American Heritage Commission (NAHC) performed a Sacred Lands File Search (SLF) for the project. The results of the SLF were negative. However, the NAHC provided your name as someone who may have information regarding cultural resources that could be impacted by the project. If you have information, questions, or comments regarding this project, please address them to Terri Fulton of LSA Associates, Inc. (LSA). Ms. Fulton is serving as the City's point of contact for Native American consultation for the project. You may contact Ms. Fulton by phone, email, or letter. Her contact information is:

Terri Fulton
Archaeologist/Native American Consultation
LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614
Phone: (949) 553-0666
Email: terri.fulton@lsa-assoc.com

Thank you for your time and input. Your participation in this process is appreciated.

Respectfully,



Stephen Badum
Director of Public Works

Attachment: Location Map

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Sent To
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 City, State, ZIP

Juaneno Band of Mission Indians
 Anita Espinoza
 1740 Concerto Drive
 Anaheim, CA 92807

PS Form 3800 CNB0901

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Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To
 Street, Apt. No., or PO Box No.
 City, State, ZIP

Juaneno Band of Mission Indians
 Adolph "Bud" Sepulveda, Vice Chairperson
 P.O. Box 25828
 Santa Ana, CA 92799

PS Form 3800 CNB0901

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Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To
 Street, Apt. No., or PO Box No.
 City, State, ZIP

United Coalition to Protect Panhe (UCPP)
 Rebecca Robles
 119 Avenida San Fernando
 San Clemente, CA 92672

PS Form 3800 CNB0901

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Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage	\$	

Sent To
 Street, Apt. No., or PO Box No.
 City, State, ZIP

TiAt Society
 Cindi Alvitre
 6515 E. Seaside Walk, #C
 Long Beach, CA 90803

PS Form 3800, June 2002 CNB0901

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Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To
 Street, Apt. No., or PO Box No.
 City, State, ZIP

Juaneno Band of Mission Indians
 Alfred Cruz, Cultural Resources Coordinator
 P.O. Box 25628
 Santa Ana, CA 92799

PS Form 3800 CNB0901

SENDER, COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Juaneno Band of Mission Indians
Anita Espinoza
1740 Concerto Drive
Anaheim, CA 92807

2. Article Number
(Transfer from service label)

7004 1350 0000 8159 6267

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
[Handwritten Signature] Addressee

B. Received by (Printed Name) Date of Delivery
[Handwritten Name] *[Handwritten Date]*

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

United Coalition to Protect Panhe (UCPP)
Rebecca Robles
119 Avenida San Fernando
San Clemente, CA 92672

A. Signature X <i>Rebecca Robles</i>		<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
B. Received by (Printed Name) <i>Rebecca Robles</i>	C. Date of Delivery <i>06-09-07</i>	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No		

3. Service Type	
<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input checked="" type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

2. Article Number (Transfer from service label) **7004 1350 0000 8159 6274**

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Juaneno Band of Mission Indians
Adolph "Bud" Sepulveda, Vice Chairperson
P.O. Box 25828
Santa Ana, CA 92799

COMPLETE THIS SECTION ON DELIVERY

A. Signature X <i>Alfred Cruz</i>		<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
B. Received by (Printed Name) <i>Alfred Cruz</i>	C. Date of Delivery <i>06-09-07</i>	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No		

3. Service Type	
<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input checked="" type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

2. Article Number (Transfer from service label) **7004 1350 0000 8159 6250**

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Juaneno Band of Mission Indians
Alfred Cruz, Cultural Resources Coordinator
P.O. Box 25628
Santa Ana, CA 92799

A. Signature X <i>Alfred Cruz</i>		<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
B. Received by (Printed Name) <i>Alfred Cruz</i>	C. Date of Delivery <i>06-09-07</i>	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No		

3. Service Type	
<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input checked="" type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

2. Article Number (Transfer from service label) **7004 1350 0000 8159 6281**

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CERTIFIED MAIL

7004 1160 0005 6039 5007

Site 200
4

UNITED STATES POSTAGE
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\$ 08.02
02 1M
0004238850 JUN 06 200
MAILED FROM ZIP CODE 92611

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UNCLAIMED

- Not Deliverable As Addressed
- Unable To Forward
- Insufficient Address
- Moved, Left No Address
- Unclaimed Refused
- Add. info - Not known
- No Such Street Number
- Vacant Incomplete
- No Mail Receptacles
- Box Closed - No Order
- Returned For Better Address
- Postage Due

Handwritten: file, 2009, NDI

TTAI Society
Cindi Alvitre
6515 E. Seaside Walk, #C
Long Beach, CA 90803

LSA
LSAASSOCIATES, INC

JUN 30 2009

RECEIVED
IRVINE

SENDER - COMPLETE THIS SECTION		ADDRESSEE - COMPLETE THIS SECTION	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature X</p> <p>B. Received by (Printed Name)</p> <p>C. Is delivery address different from A? If YES, enter delivery address below</p>	
<p>1. Article Addressed to:</p> <p>TTAI Society Cindi Alvitre 6515 E. Seaside Walk, #C Long Beach, CA 90803</p>		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Signature M</p> <p><input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Rec</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> G.O.S.</p> <p>4. Restricted Delivery? (Extra Fee)</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>7004 1160 0005 6039 50</p>	

PS Form 3811, February 2004

Domestic Return Receipt

Terri Fulton

From: Terri Fulton
Sent: Monday, June 15, 2009 3:38 PM
To: bssepul@yahoo.net
Cc: Terri Fulton
Subject: Newport Beach City Hall and Park Development Plan Project

Hi Bud,

I wanted to follow up with you to see if you received a packet that was sent by certified mail from the City of Newport Beach. The packet contained an Initial Study/Notice of Preparation for the Newport Beach City Hall and Park development Plan project. The cover letter listed me as the point of contact for the City, and I am just following up to see if you have any concerns about this project and cultural resources. If you do, please call me at your earliest convenience at 949-553-0666 so that they can be addressed. As always, thanks very much for your time and input.

Best Regards,

Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation
LSA Associates, Inc.

LSA Telephone Conversation Log

Date: June 15, 2009
Contact: Anita Espinoza, Juaneño Band of Mission Indians
Subject: CEQA Consultation for the Newport Beach City Hall and Park Development Plan (LSA Project No. CNB0901)

Ms. Espinoza stated that she received the NOP packet and will possibly comment after she has reviewed the material.

By: TPF

LSA Telephone Conversation Log

Date: June 15, 2009

Contact: Rebecca Robles, United Coalition to Protect Panhe (UCPP)

Subject: CEQA Consultation for the Newport Beach City Hall and Park Development Plan (LSA Project No. CNB0901)

Ms. Robles stated that she received the NOP packet and will likely comment after she has reviewed the information.

By: TPF

LSA Telephone Conversation Log

Date: June 18, 2009
Contact: Anita Espinoza, Juaneño Band of Mission Indians
Subject: CEQA Consultation for the Newport Beach City Hall and Park Development Plan (LSA Project No. CNB0901)

Ms. Espinoza called to say that she reviewed the NOP and does consider the area to be sensitive for cultural resources. She would like to be kept informed of any discoveries and recommends monitoring by a Native American and an archaeologist subsequent to any discoveries.

By: TPF

Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Monday, July 06, 2009 4:31 PM
To: Terri Fulton
Subject: Re: City Hall NOP and IS

LOL NO PROBLEM-

YOUR RIGHT-TIME FRAME AND DATES ARE GOING TO BE ON FORMAT -DRAFT-

- FYI I ONLY SLEEP 5 -6 HRS MAX SO-
9AM-10 AM IS USUALLY AC= AFTER COFFEE-

YOU CAN LEAVE A MSSG EARLIER IF NEED BE- - THANKS, JT

On Mon, Jul 6, 2009 at 4:13 PM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

I am so lame – your number is too on the NAHC list! Sorry about that. I am out the door right now but let's talk tomorrow. I'll give you a buzz (but NOT at 9:00 a.m. if you are up until 2 or 3!)

As far as the meeting goes, don't worry about this week if you are too busy. They will be flexible. I'm sure the next thing they will request is if you can give them a two or three dates or times that will work so everyone can coordinate. So maybe start thinking about that, too.

Also, there is no such thing as going overboard in consultation – this is the most important part. Thanks for being so responsive.

Cheers,

T.

From: Johntommy Rosas [mailto:tattnlaw@gmail.com]
Sent: Monday, July 06, 2009 3:53 PM

To: Terri Fulton
Subject: Re: City Hall NOP and IS

WOW - I THOUGHT YOU HAD MY PH ?

8/14/2009

DIRECT CELL 310 570 6567

ALSO NEW GOOGLE VOICE -[I AM AN OFFICIAL TESTER] 310 570 2792 PRIVATE ON BOTH
6567 IS ON THE NAHC CONTACT SO?

YEAH I KNOW THIS WEEK IS OUT FOR ME-UNLESS I MAKE A SPECIAL APPEARENCE-
IMPORTANT FOR YOU OR THEM?

IF ITS FOR YOU I WILL TRY -DICEY THO -TIME WISE-

FOR THEM -NB ET AL THEN -- NO-

WE NEED A FORMAT-- WE NEED THEM TO AGREE TO IT AND THEN PROCEED - WITH OUT
THAT IT WILL BE MESSED UP LIKE OTHERS-

I CAN WORK FAST ON MY ISSUES CAN THEY? WILL THEY?

SO I AM WILLING TO MOVE ASAP- THEY ARE THE UNKNOWN- WE WILL BE FINE-

LOL PILGRIMS AND FIREWORKS- TOO MANY ACTION MOVIES?

GLAD THE PALMS ARE OK- AS WELL AS YOU, CALL ANYTIME I WORK TILL 2AM EVERY
NITE -WELL 3AM LAST NITE SO-FEEL FREE-JT

On Mon, Jul 6, 2009 at 3:42 PM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

This is a great start, thank you. I know you are super busy but if you could send any additional thoughts sometime tomorrow (like you say below), then I can forward everything to the City and maybe we can meet on site this week. That's pretty important.

if you want to call me since I don't have your phone number, I'm in the office from 9-5 tomorrow, 949-553-0666. I'll be out of the office all day Wednesday, but back Thursday and Friday.

8/14/2009

Thanks Johntommy!

PS – no fires, but a whole lot of explosions! There were car alarms going off everywhere. It never ceases to amaze me.

From: Johntommy Rosas [mailto:tattnlaw@gmail.com]

Sent: Monday, July 06, 2009 11:49 AM

To: Terri Fulton

Subject: Re: City Hall NOP and IS

THIS IS A START

Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f])*et se*, and NAGPRA (25 U.S.C. 3001-3013), as appropriate. .

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

The response to this search for Native American cultural resources is conducted in the NAHC Sacred Lands Inventory, established by the California Legislature (CA Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10) although Native Americans on the attached contact list may wish to reveal the nature identified cultural resources/historic properties. Confidentiality of "historic properties of religious and cultural significance" may also protect the items under Section 304 of the NHPA or at the Secretary of the Interior' discretion if not eligible for the National Register.

On Mon, Jul 6, 2009 at 11:41 AM, Johntommy Rosas <tattnlaw@gmail.com> wrote:

HI MISS TERRI-

FORMAT - I THINK WE NEED TO ADDRESS THE ISSUES FIRST WITH CEQA , NEPA, SB 18 -OPR GUIDELINES-

I WANT TO DO A SITE VISIT WITH YOU AND THEM AT SOME POINT SOON

8/14/2009

I THINK WE SHOULD DO AS MUCH AS POSSIBLE BY EM, PH , BEFORE ON SITE MTG AND REVIEW OF PROJECT ALSO -

I NEED TO HEAR THEIR SIDE OF THE STORY AND WHY THEY NEED THAT TAJ MAHAL--CITY HALL-ETC--

I WILL START A LIST SO YOU AND NB CAN -SEE WHAT NEEDS TO HAPPEN AND HOW WE CAN PROCEED

BIZY BUT I WILL GET SOMETHING DRAFTED TODAY AND EM TONITE FOR TUES AM REVIEW-

AND I AM OPEN TO HEAR WHAT YOU FOLKS WANT OR THINK TOO--OK, THANKS JT

I HOPE YOU HAD A GOOD WEEKEND -FIRES?? LOL

On Mon, Jul 6, 2009 at 11:28 AM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

Hi Johntommy -

Hope you had a good weekend. I have been asked to contact you regarding the format for the meeting. Have you had a chance to think about that yet? Would you like us to put one together that you could approve?

Or, if a meeting is inconvenient, the City can do a conference call or something else.

Basically, it's your call on how you would like to go about consultation for this project with the City. Thanks!

From: Johntommy Rosas [mailto:tattnlaw@gmail.com]

Sent: Tuesday, June 30, 2009 1:36 PM

To: Terri Fulton

Subject: Re: City Hall NOP and IS

OK -GOOD

1ST C OF NB NEEDS TO BE RESPECTFUL OF US AND WE NEED A PLAN / FORMAT-

OTHERWISE THIS WILL GET OUT OF CONTROL AND BE USELESS AND ILLEGAL, THANKS JT

On Tue, Jun 30, 2009 at 1:31 PM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

Yes, I had a feeling tomorrow was going to be too short of notice. That actually threw me, too.

Okay, please put together a format that you would prefer for a meeting, and don't hesitate to ask me for any other documents so that you will have all the background you need.

From: Johntommy Rosas [mailto:tattnlaw@gmail.com]
Sent: Tuesday, June 30, 2009 1:21 PM

To: Terri Fulton
Subject: Re: City Hall NOP and IS

GOOD - YOUR DIRECT ATTENTION ON THIS IS CRITICAL,

THIS AND THE BANNED RANCH PROJECT ARE URGENT MATTERS TO ME -

I WILL SEND YOU [AND THEM?] A FORMAT DRAFT

AND THEIR OFFER TO MEET TOMORROW IS TOO SHORT OF NOTICE FOR ME-

I WANT THE MEETINGS TO BE PLANNED AND WITH THE EXCHANGE OF DOCUMENTS AND DISCUSSIONS-THANKS JT

On Tue, Jun 30, 2009 at 12:43 PM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

I can definitely be there to help.

From: Johntommy Rosas [mailto:tattnlaw@gmail.com]
Sent: Tuesday, June 30, 2009 12:34 PM

To: Terri Fulton
Subject: Re: City Hall NOP and IS

WELL - I BELIEVE WE NEED TO SET UP A FORMAT AND AGREE TO THE PROCESS -FIRST

8/14/2009

MY PREFERENCE IS FOR YOU TO BE THERE AND HELP IN THIS PROCESS -

On Tue, Jun 30, 2009 at 12:28 PM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

Hi Johntommy,

I forwarded your comments to the City and they would like to know what your preference would be for consultation. Would you like to meet with the City planners? The City people (2 planners, I think) are available to meet anytime tomorrow, or next Tuesday or Wednesday morning (July 9 or 10). A couple LSA people can be there, too. We can either meet at the site, or at the current Newport Beach City Hall. Just let me know what works best for you. Thanks.

From: Johntommy Rosas [<mailto:tattnlaw@gmail.com>]

Sent: Friday, June 26, 2009 10:56 PM

To: Terri Fulton

Subject: Re: City Hall NOP and IS

HI SORRY BEEN SWAMPED BETWEEN CROOKED INDIANS AND CROOKED GOVT ETC.

I HAVE DONE ALOT OF REVIEW AND RESEARCH ON THIS SO I WILL KEEP WORKING ON IT AND GET BACK WITH YOU.

I OBJECT TO THE PROJECT ON CITY OF NEWPORT BEACH VIOLATIONS TO OUR INDIGENOUS RIGHTS AND ADD IRVINE CO ALSO-

OUR OBJECTIONS ARE ON THE HIGH SENSITIVITY ON CULTURAL RESOURCES, ENVIRONMENTAL RESOURCES, WETLANDS IMPACTS , BIOLOGICAL RESOURCE / HABITAT--NEGATIVE IMPACTS.

ALSO I WAS CONSULTED ON THE SB18 PROCESS FOR OPEN SPACE OR SPECIFIC /GENERAL PLAN CHANGES. SO I OBJECT TO THAT ILLEGAL BEHAVIOR AND ACTIONS BY C OF NB.

ALSO I BELIEVE THAT PROPERTY TITLE ISNT CLEAR AS WE HAVE TRUE AND RIGHTFUL TITLE .

IF THE PROCESS CONTINUES THE PURPORTED TITLE AND TRANSFER[S] SEEM ILLEGAL AND I ALSO BELIEVE THIS PROPERTY WAS A MITIGATION MEASURE AND NOW C OF NB WANTS TO DEVELOP IT FOR THEM SELVES- SO I OBJECT TO THAT .

8/14/2009

ALSO THIS PROPOSED PROJECT WILL REQUIRE A FULL SEC 106 NHPA, SEC 7 ESA/NEPA , SEC 404 CWA PERMIT AND A PA WITH US A SIGNATORY, REVIEW AND MY DIRECT CONSULTATION.

WHICH IS STARTING WITH THIS AND YOUR INVOLVEMENT.

SO IF I AM TO CONSULT WITH YOU AND C OF NB , LET ME KNOW AND THEY NEED TO BE RESPONDING TO MY CONCERNS ALSO.

THANKS JOHNTOMMY

PS WHATS HAPPENING WITH THAT BANNING RANCH PROJECT I WAS CONTACTED BY SOMEONE ELSE AND I NEVER HEARD BACK FROM HER, AND I CONTACTED THE C OF NB AND THEY DIDNT RESPOND BACK.??

On Wed, Jun 10, 2009 at 3:59 PM, Johntommy Rosas <tattnlaw@gmail.com> wrote:

HI --OH GOOD I CAN CONSULT WITH SOMEONE ETHICAL FOR A CHANGE-LOL- I LOOK FORWARD TO WORKING WITH YOU ON THIS-

I JUST GOT BACK SO LET ME REVIEW THIS PROPOSED PROJECT AND I WILL GET RIGHT BACK TO YOU IN A COUPLE OF DAYS, OK

HOPE ALL IS WELL WITH YOU AND YOURS, JT

On Wed, Jun 10, 2009 at 1:44 PM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

Hi John Tommy,

Here is a project for you to review. This is for the City of Newport Beach. I am their point of contact, so you can respond to me. As always, thanks for your time and input.

Best Regards,

Terri Fulton

8/14/2009

LSA Associates, Inc.

949-553-0666

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LSA Telephone Conversation Log

Date: July 7, 2009, 11:20 a.m.
Contact: John Tommy Rosas, Tongva Ancestral Territorial Tribal Nation
Subject: CEQA Consultation for the Newport Beach City Hall and Park Development Plan (LSA Project No. CNB0901)

Mr. Rosas telephoned to discuss the consultation for the above project. He requested a meeting with me separately, prior to a meeting with the City, if possible. The purpose of this meeting will be to do a site walkover, and then sit down and line out all of the issues, concerns, recommendations, and requests that the Tribe would like to convey to the City regarding this project. These items would then be shared with the City so that City representatives could review them prior to another meeting that would be scheduled between them, LSA, and Mr. Rosas. This approach was proposed by Mr. Rosas in an effort to save time by having everyone informed prior to the meeting with the City.

We agreed that this was a good first step in the consultation process. A meeting was not formally set up, but we are tentatively looking towards sometime next week (July 13 to July 17).

By: TPF

Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Wednesday, July 08, 2009 1:35 AM
To: Terri Fulton
Subject: Re: phone conversation log

HI
ITS IMPORTANT TO HAVE NB REMEMBER THE NB PROJECT IS NOW COURT RULED TO BE NB
LANDS-BY NEW TITLE -
SO THAT MEANS THEY ARE PUBLIC LANDS AND UNDER THOSE LAWS , CODES AND
CONDITIONS-
ITS IMPORTANT AS WE HAVE MORE RIGHTS AND THEY HAVE TO HONOR THOSE RIGHTS-
I DONT AGREE THE TITLE IS CLEAR OUR LAND BUT -FOR NOW-

IF WE CAN ORDER A RADAR TEST FOR THE WHOLE PROPERTY AND I GET THE REPORT YOU
FOLKS HAVE DONE -WE ALL WILL HAVE A BETTER IDEA WHATS THERE AND NOT THERE-

THEY CANT OWN OUR SITES AND THE LAND THATS ON /AROUND THEM- JT

On Tue, Jul 7, 2009 at 4:22 PM, Johntommy Rosas <tattnlaw@gmail.com> wrote:

HI - WELL - THATS FINE-

I THINK I DONT WANT TO GET TOO TECHNICAL WITH YOUR WORDS-
YOU MAKE THE POINTS AND I TRUST YOU SO -ITS FINE-

I NEED TO GET ON MY PROCESS //FORMAT DOC- AND GET IT TO YOU-1ST ASAP-
SOME OF THESE DOCUMENTS HAVE TO GO TO THEM [NB] FROM ME TOO -ALL WILL BE CC'D
TO YOU

I THINK ONLY CERTAIN THINGS NEED TO GO TO THEM DIRECT FOR LEGAL AND LIABILITY
ISSUES-
AGAIN YOU WILL GET ALL 1ST - I JUST NEED TO HAVE A DIRECT PAPER RECORD TO THEM
AS THIS WILL END UP IN COURT ITS 70/30 NOW

THANKS GOOD TO TALK WITH YOU- GOOD TO WORK WITH YOUR PROFESSIONAL STYLE -
AND PLEASANT TOO- JT -

On Tue, Jul 7, 2009 at 4:09 PM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

Hey John Tommy,

I put together a record of our conversation today. Could you please review this and make sure that it sums up what we talked about for the Newport Beach project only? Let me know if you would like me to add anything I missed that you want on the record. Thanks.

And thanks for the link! Very exciting!

--

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From: Johntommy Rosas [mailto:tattnlaw@gmail.com]
Sent: Monday, July 13, 2009 2:32 PM
To: Terri Fulton
Subject: Re:

HI - SWAMPED ? JOIN THE CLUB LOL

I WILL SAY THAT --IT IS A SEC 106 NHPA PROCESS PROJECT AND NB THINKS IT ISNT ?

I AM NOW STRONGLY REQUESTING THEM TO BEGIN FULL SEC 106 NHPA CONSULTATION-
I CAN DEMAND THAT FROM THEM AS A MATTER OF LAW AND IF THEY QUESTION THAT THEN THEY CAN RE READ THE NAHC LTR ON ME AND CA WATER BOARD-CULTURAL RESOURCES-NAHC AGREES-

SO IF THEY REFUSE THEN I SEE THIS AS A NON-COMPLIANT PROCEES FOR THEIR PROJECT -
ANY ON SITE MEETING WITH THEM -- WILL THEN BE USE LESS-

SO - TELL THEM OR SHOW THEM [NB] WE GO FROM THERE

THANKS JT

On Mon, Jul 13, 2009 at 2:22 PM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

Hi John Tommy,

The City has confirmed that their project is not in the Coastal Zone and apparently this is straight CEQA with no Section 106...

To answer your question, yes this email is secure and not a public document.

I have been swamped over the last couple days so I'm going to go over all of the links you sent right now. Any idea about timing for us to meet?

From: Johntommy Rosas [mailto:tattnlaw@gmail.com]
Sent: Thursday, July 09, 2009 11:37 AM
To: Terri Fulton
Subject: Re:

ALSO ISNT THAT NB C HALL IN COASTAL ZONE

CZMA AND CCC JURISDICTIONS?

On Thu, Jul 9, 2009 at 11:33 AM, Johntommy Rosas <tattnlaw@gmail.com> wrote:

HI- TERRI

I THINK IT SHOULD BE CLEAR YOU ARE IN THIS IN YOUR FULL CAPACITY[S]

THE NOP IS OK , IT DOESNT CONFIRM WHAT WE WILL BE DOING

I THINK WE NEED A BRIEF 4 SETENCE DOC ON NB LTR HD SAYING NB -THRU YOU -TO ME WILL BE DOING TC-SIMPLE-

EM DOC IS FINE- I WILL CONFIRM RECEIPT AND I WANT THEM TO KNOW YOU ARE CRUCIAL IN THIS IF THEY WILL HAVE ANY CHANCE TO SETTLE IT WILL BE CAUSE WE WORK IT OUT- WITH THEM

I TRUST YOU AND ITS NOT THAT YOU DONT HAVE IT- THEY NEED TO BE CLEAR SO YOU CAN FULLY FUNCTION

IT WILL GET TRICKY LATER AND ITS GOOD TO GET THAT DOC -NOW BETTER THAN LATER- YOUR THOUGHTS?

STIK THING WAS ON A EM AND SO FOR SOME REASON - I THOUGHT YOU WOULD GET A KICK OUT OF IT-

I DONT USUALLY SEND / USE THAT STUF-

YOU NEVER KNOW WHAT IT MEANS OR DOES WEIRD THING I DIDNT NOTICE
NEXT THING I KNOW I AM SAYING SORRY LOL

I WILL FWD SALAS DOCS - IS THIS EM ADD OF YOURS SECURE -ITS NOT A
PUBLIC DOC , SO?

On Thu, Jul 9, 2009 at 11:00 AM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

No I didn't see them -- sure, please forward them, sounds interesting!

I got your vm the other day but had already left, and I was out all day yesterday. You were asking about an official statement from CNB that said I would help with the consultation...I think in the cover letter for the NOP it says to contact me, will that work since the letter is on City letterhead? If not, I will get them to issue another statement, maybe by email.

Also - The stick figure graphic is very cool!

From: Johntommy Rosas [<mailto:tattnlaw@gmail.com>]
Sent: Wednesday, July 08, 2009 11:53 AM
To: Terri Fulton
Subject:

--
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LSA Telephone Conversation Log

Date: July 15, 2009, 1:30 p.m.
Contact: John Tommy Rosas, Tongva Ancestral Territorial Tribal Nation
Subject: CEQA Consultation for the Newport Beach City Hall and Park Development Plan (LSA Project No. CNB0901)

I telephoned Mr. Rosas to discuss the next steps in the consultation process for the above project. He has requested Section 106 consultation and I told him I forwarded that request to the City. The City plans on responding to him in a letter. He stated that he will wait for the letter response and after he reviews it, we will decide how to proceed.

By: TPF

Terri Fulton

From: Murillo, Jaime [JMurillo@city.newport-beach.ca.us]
Sent: Friday, July 17, 2009 12:00 PM
To: tattnlaw@gmail.com
Cc: Lepo, David; Terri Fulton; Nicole Dubois
Subject: Newport Beach City Hall & Park Development Plan- Requested Information
Attachments: Rosas Letter.pdf

<<Rosas Letter.pdf>>

Mr. Rosas,

Attached, please find a letter from David Lepo, Planning Director for the City of Newport Beach, responding to your request for information submitted through Terri Fulton at LSA Associates, Inc.

Thank you,

Jaime

Jaime Murillo
Associate Planner
City of Newport Beach
P (949) 644-3209
F (949) 644-3229
jmurillo@city.newport-beach.ca.us



CITY OF NEWPORT BEACH

PLANNING DEPARTMENT

July 17, 2009

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Administrator
Via Email: tattnlaw@gmail.com

Dear Mr. Rosas,

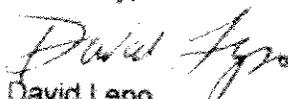
Terri Fulton of LSA Associates, Inc., has made the City of Newport Beach aware of your request for consultation under Section 106 of the National Historic Preservation Act of 1966, as amended (Section 106) for the Newport Beach City Hall and Park Development Plan Project. In addition, you have asked if the project is located within the Coastal Zone, and would therefore be subject to review by the California Coastal Commission. As you are aware based on a letter sent to you on June 3, 2009 that also included the Notice of Preparation and Initial Study for the project, Ms. Fulton is serving as the City's point of contact for Native American consultation.

With regards to your questions, the City has the following responses. The project is not within the Coastal Zone and is not subject to review by the Coastal Commission. In addition, the project is not subject to Section 106 regulations or review. In order to be subject to Section 106 regulations, the project would have to classify as a "federal undertaking" as defined in 36 CFR 800.16 (y) which states, "Undertaking means a project, activity, or program funded in whole or in part under the director or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval." The City has confirmed that the project as planned does not qualify as an "undertaking" as defined because no federal involvement, funding or Permits will be required. Therefore, while the project does clearly fall under the jurisdiction of the California Environmental Quality Act, it does not meet the criteria to be considered a Section 106 project, nor is it subject to National Environmental Policy Act (NEPA) review.

Regardless, when contacted by Ms. Fulton on behalf of the City, the Native American Heritage Commission identified you as a Native American contact that may be aware of impacts that could occur to cultural resources as a result of the project. Therefore, you were contacted by the City's consultant in an effort to obtain information regarding the project and its potential impacts to tribal cultural resources.

The City takes its responsibilities regarding Tribal consultation very seriously and would like to encourage your participation. Please contact Ms. Fulton at your earliest convenience if you would like to arrange a meeting or conference call to discuss your concerns directly with us. We look forward to working with you.

Sincerely,


David Lepo
Planning Director

Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Friday, July 17, 2009 1:45 PM
To: Terri Fulton
Subject: Re: EIS -EIR NB

LOL

SO I SUGGEST YOU GET THE EIS AMENDED TO EIR CONTRACT CHANGES--JT

On Fri, Jul 17, 2009 at 1:43 PM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

I checked and yes, LSA is doing the EIR...

From: Johntommy Rosas [mailto:tattnlaw@gmail.com]
Sent: Friday, July 17, 2009 1:21 PM
To: Terri Fulton
Subject: EIS -EIR NB

I AM NOT SURE ABOUT WHO IS DOING THE EIR FOR THEM --LSA DOING COMPLETE EIR ?

THIS IS A EIS EIR PROJECT AND THAT NB LETTER CONTAINS ERRORS AND HE IS WRONG - SO

I GUESS - I WILL HAVE TO HELP THEM ?

--
JOHN TOMMY ROSAS
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Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Friday, July 17, 2009 2:34 PM
To: Murillo, Jaime
Cc: Lepo, David; Terri Fulton; Nicole Dubois; Dave Singleton
Subject: Re: Newport Beach City Hall & Park Development Plan- Requested Information

OK QUIK NOTE BACK ON YOUR LETTER [ATTCHD]

1. I TOTALLY DISAGREE WITH YOUR COUNTER CLAIMS TO MY FEDERAL JURISDICTION AND SEC 106 NHPA.
2. SAME ON CA COASTAL COMM AND OR NOAA CZMA AND YOUR OWN NB LCP PROJECT [S]=**What is a LCP?**

Implementation of Coastal Act policies is accomplished primarily through the preparation of a Local Coastal Program (LCP). The LCP is typically prepared and adopted by a municipality or county, then it is reviewed and approved by the Coastal Commission. A LCP typically consists of a land use plan and an implementation plan. The land use plan indicates the kinds, location, and intensity of land uses, the applicable resource protection and development policies, and, where necessary, a listing of implementing actions. The implementation plan consists of the zoning ordinances, zoning district maps, and other legal instruments necessary to implement the land use plan.

What are the Goals of the Coastal Act?

- * Protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.
 - * Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
 - * Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.
 - * Assure priority for coastal-dependent and coastal-related development over other development on the coast.
 - * Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.
3. CZMA AND OTHER NOAA , NEPA DO APPLY AND SUPERSEDE ANY LOCAL AUTHORITY NB MAY CLAIM OR NOT CLAIM, VALID.
 4. WE AGAIN DEMAND RESPECT TO OUR SITES YOU CANT OWN AND WE WANT THE FULL LEGAL REVIEW OF THE PUBLIC LAND THE NB PROJECT IS PROPOSED WITHIN.
 5. WE ALSO DEMAND A EIS -EIR DOCUMENT PER NEPA, AS THIS PROJECT REQUIRES, WHY YOU ASK- I WANT YOU TO STATE IN WRITING FOR THE RECORD THAT ZERO FEDERAL FUNDS AND /OR JURISDICTIONS THAT TRIGGER NEPA, ETC; ARE OR

WERE EVER INVOLVED IN/FOR THIS PROPOSED PROJECT , AND THIS INCLUDES ANY STUDYS OR GRANTS , ETC. INCLUDING THE MACARTHUR BLVD. EASEMENTS , SO PLEASE RE VERIFY THOSE CLAIMS YOU MADE AND STATE IT CLEARLY IN WRITING.PLEASE.

6. WE CONSIDER THIS PART OF THE TRIBAL CONSULTATION AND AS YOU STATE, CITY OF NEWPORT BEACH ENCOURAGES TATTN/JTR PARTICIPATION, WELL ITS STARTED ALREADY I WILL CONTINUE THE TRIBAL CONSULTATION WITH NB AND MS. TERRI FULTON OF LSA.

THANKS, I WILL RESPOND WITH A FORMAL TATTN LETTER TO YOU ON YOUR LETTER AND ITS CONTENTS BY MONDAY AM-

/S/ JOHNTOMMY ROSAS

PS I TYPE EM'S IN CAPS /UPPER CASE SO NOT YELLING OR ANY DISRESPECT INTENDED-JT

On Fri, Jul 17, 2009 at 11:59 AM, Murillo, Jaime <JMurillo@city.newport-beach.ca.us> wrote:

<<Rosas Letter.pdf>>

Mr. Rosas,

Attached, please find a letter from David Lepo, Planning Director for the City of Newport Beach, responding to your request for information submitted through Terri Fulton at LSA Associates, Inc.

Thank you,

Jaime

Jaime Murillo
Associate Planner
City of Newport Beach
P (949) 644-3209
F (949) 644-3229
jmurillo@city.newport-beach.ca.us

 JOHN TOMMY ROSAS
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8/14/2009

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Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Sunday, July 19, 2009 2:55 PM
To: Murillo, Jaime
Cc: Lepo, David; Terri Fulton; Nicole Dubois; Dave Singleton
Subject: Re: Newport Beach City Hall & Park Development Plan- Requested Information

I SAID I WOULD RESPOND FURTHER BY MON AM-JULY 20

I AM GOING TO WAIT A COUPLE OF DAYS -MAX-ON THAT 2ND TATTN RESPONSE-

ALSO IT WILL MORE COMPLETE AND INCLUDE EXHIBITS -WHICH WILL HELP ALL IN THIS TRIBAL CONSULTATION-

I NEED TO WAIT FOR NAHC -TO RESPOND ON THIS -CITY OF NB LETTER AND TO ME--SO WE WILL SEE THAT SOON -

ALSO AS CITY OF NEWPORT BEACH HAS ASKED FOR MY RESPONSES-AND I AM AND HAVE RESPONDED-

CITY OF NB ALSO HAS SOME QUESTIONS TO ANSWER -SO WE CAN HAVE ALL THE INFORMATION ON OUR SACRED SITES THAT ARE/WERE THERE-

AS ITS BEEN DOCUMENTED THAT THERE WERE /ARE 51 TONGVA SITES WITHIN/IN THE 1 MILE DIAMETER OF THE PROPOSED PROPERTY-

SO THAT MEANS WITHIN A 1/2 MILE OUT - SO YOU SEE OUR STRONG CONCERNS HERE-AND THE DISRESPECT TO OUR TRIBE--

AS I HAVE INFORMATION THAT STATES A MINIMUM OF OVER 300 TONGVA BURIALS HAVE BEEN DESECRATED BY CITY OF NEWPORT BEACH-ALREADY-

/S/ JOHNTOMMY ROSAS

On Fri, Jul 17, 2009 at 11:59 AM, Murillo, Jaime <JMurillo@city.newport-beach.ca.us> wrote:

<<Rosas Letter.pdf>>

Mr. Rosas,

8/14/2009

Attached, please find a letter from David Lepo, Planning Director for the City of Newport Beach, responding to your request for information submitted through Terri Fulton at LSA Associates, Inc.

Thank you,

Jaime

Jaime Murillo
Associate Planner
City of Newport Beach
P (949) 644-3209
F (949) 644-3229
jmurillo@city.newport-beach.ca.us

--
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Terri Fulton

From: Terri Fulton
Sent: Friday, July 31, 2009 11:39 AM
To: Johntommy Rosas
Cc: Nicole Dubois; Murillo, Jaime; Dave Singleton; Steve Conkling; Terri Fulton
Subject: NB City Hall Development Plan consultation

Hi John Tommy,

I am writing to you on behalf of the City of Newport Beach (City) regarding the Newport Beach City Hall and Park Development Plan. The City is currently engaged in consultation with you as recommended by the Native American Heritage Commission. As you know, the City has offered several dates for a meeting with you where they could directly address your comments and concerns. So far, we have been unable to confirm a date for that meeting. The City feels that a face-to-face exchange would help answer your questions as effectively as possible. They would like to again extend the invitation to meet at your earliest convenience. The City could also meet with you over a conference call if you cannot easily travel to Newport Beach for the meeting.

Alternately, since I am the City's consultant for facilitating the consultation process, I would be happy to schedule a separate meeting with you, either as a prelude to, or as an alternative to, meeting with the City.

The City wishes to encourage you to set a date for this meeting at your earliest convenience. The environmental review process for the project is well underway and the City needs your comments if they are to be addressed through the project Environmental Documentation.

The City respects your heritage, values, and input with regards to Native American cultural resources. Thank you for your help in setting up this important meeting. We look forward to hearing from you.

Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
Phone (949) 553-0666
Fax (949) 553-8076
Wireless (949) 337-5454

Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Friday, July 31, 2009 8:25 PM
To: Terri Fulton
Subject: NB ILLEGAL BALLOT DIDNT DISCLOSE - TATTN -TONGVA BURIAL AREA- ALSO DIDNT DISCLOSE WETLANDS ISSUE-

Attachments: NB%20WEBVERSION MEASURE B BALLOT OFC.pdf

The park, which is located between MacArthur, Avocado and San Miguel, was donated to the city as a park in exchange for development rights elsewhere, planned as a park and reaffirmed as a park by voters in last year's election. The park currently provides one of the best public ocean views in the city and will have traditional open grass areas, a gazebo for weddings and events and a tot lot. This measure violates Greenlight, the voter-approved general plan, the action of city council and the expressed position of neighborhood associations.

--
JOHN TOMMY ROSAS
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Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Saturday, August 01, 2009 1:45 PM
To: Terri Fulton
Subject: Re: NB ILLEGAL BALLOT DIDNT DISCLOSE - TATTN -TONGVA BURIAL AREA- ALSO DIDNT DISCLOSE WETLANDS ISSUE-

.....
**IMPARTIAL ANALYSIS BY CITY ATTORNEY
MEASURE B**

The Charter is the constitution for the City of Newport Beach. A "yes" vote would amend the Charter to add Section 425 to require City Hall, including City administrative offices and relating parking, to be located on City property located adjacent to the Newport Beach Central Library in the Newport Center area of the City. Specifically, the property is a 12.82 acre unimproved parcel bounded by Avocado Avenue on the west, San Miguel Drive on the north and MacArthur Boulevard on the east with the Newport Beach Central Library to the south.

The City's General Plan designates the property as open space and identifies it as a site for development of a future passive park to be called Newport Center Park. The zoning regulations identify the property as open space, including a 4 acre public park as a permitted use. Neither the General Plan nor zoning regulations authorize construction of a city hall on the property.

If this Charter amendment is approved, it can only be changed by future voter approval. The Initiative states that its provisions shall supersede any conflicting provisions of the General Plan or Municipal Code, and to the extent permitted by law, authorizes and directs the City to amend the General Plan, Municipal Code and other policies and regulations to implement the Initiative as soon as possible to ensure consistency and correlation between the Initiative, General Plan and Municipal Code.

If the measure is defeated, the City would not be required to move City Hall from its current location at 3300 Newport Boulevard on the Balboa Peninsula to the property in Newport Center. City Hall and City administrative offices could stay in the current location, or be moved to another location as may be later identified by the City.

THE ABOVE STATEMENT IS AN IMPARTIAL ANALYSIS OF MEASURE B. IF YOU DESIRE A COPY OF THE MEASURE, PLEASE CALL THE NEWPORT BEACH OFFICE OF THE CITY CLERK AT 949-644-3005 AND A COPY WILL BE MAILED AT NO COST TO YOU. THE TEXT OF THIS MEASURE IS ALSO AVAILABLE ON THE CITY'S WEBSITE AT www.city.newport-beach.ca.us

On Fri, Jul 31, 2009 at 8:25 PM, Johntommy Rosas <tattnlaw@gmail.com> wrote:

The park, which is located between MacArthur, Avocado and San Miguel, was donated to the city as a park in exchange for development rights elsewhere, planned as a park and reaffirmed as a park by voters in last year's election. The park currently provides one of the best public ocean views in the city and will have traditional open grass areas, a gazebo for weddings and events and a tot lot. This measure violates Greenlight, the voter-approved general plan, the action of city council and the expressed

position of neighborhood associations.

--
JOHN TOMMY ROSAS
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Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Saturday, August 01, 2009 1:51 PM
To: Terri Fulton
Subject: Re: NB ILLEGAL BALLOT DIDNT DISCLOSE - TATTN -TONGVA BURIAL AREA- ALSO DIDNT DISCLOSE WETLANDS ISSUE-

THIS FROM NOP --THESE FED AGENCYS - EQUATES TO -REQ 106 NHPA-
NB LEFT OFF NEPA AND ESA-

Responsible Agency Action

1. California Department of Fish and Game (CDFG)
Fill of riparian/wetland habitat through approval of a 1602 Streambed Alteration Agreement (exact permitting requirements to be determined)
2. United States Army Corps of Engineers (ACOE)
Section 404 Permit for fill of riparian/wetland (exact permitting requirements to be determined)
3. State Water Resources Control Board (SWRCD)
Applicant must submit a Notice of Intent (NOI) to comply with the General Activity Construction National Pollution Discharge Elimination System (NPDES) Permit
4. Regional Water Quality Control Board (RWQCB)
Storm sewer discharge permit and a Temporary Construction Dewatering Permit
5. Orange County Airport Land Use Commission (ALUC)
Determination of Consistency
6. Federal Aviation Administration (FAA)
FAA Determination

On Fri, Jul 31, 2009 at 8:25 PM, Johntommy Rosas <tattnlaw@gmail.com> wrote:

The park, which is located between MacArthur, Avocado and San Miguel, was donated to the city as a park in exchange for development rights elsewhere, planned as a park and reaffirmed as a park by voters in last year's election. The park currently provides one of the best public ocean views in the city and will have traditional open grass areas, a gazebo for weddings and events and a tot lot. This measure violates Greenlight, the voter-approved general plan, the action of city council and the expressed position of neighborhood associations.

JOHN TOMMY ROSAS
TRIBAL ADMINISTRATOR
TRIBAL LITIGATOR

8/14/2009

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Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Saturday, August 01, 2009 1:53 PM
To: Terri Fulton
Subject: Re: NB ILLEGAL BALLOT DIDNT DISCLOSE - TATTN -TONGVA BURIAL AREA- ALSO DIDNT DISCLOSE WETLANDS ISSUE-

NO MENTION-ILLEGALLY OF TONGVA -TATTN SITES OR BURIALS - WELL KNOWN TO THEM JUST FROM LSA REPORT- SO?
BELOW FROM NOP

.....
The proposed project would result in the relocation of City Hall (with the exception of the Fire Department), including all City employees and functions. The proposed project includes construction and operation of (1) an approximately 90,000-square-foot (sf) City Hall building, meeting hall, and Council Chambers; (2) a 450-space parking structure; (3) an approximately 20,000 sf expansion of the Newport Beach Central Library; and (4) construction of a public park. The proposed development areas/uses for the proposed project site are shown in Figure 2.

The park is proposed to include both natural and more formal park features. A dog park is proposed to be located in the north section of the park. The central portion of the proposed park located south of San Miguel Drive but north of the proposed City Hall structures, would be largely organized around the existing wetland area and the steep slopes that form its sides. Within the wetlands area, invasive exotic planting would be removed and efforts would be made to improve water quality. A pedestrian bridge over San Miguel Drive is also proposed to link the central and northern parcels.

.....
On Fri, Jul 31, 2009 at 8:25 PM, Johntommy Rosas <tattnlaw@gmail.com> wrote:

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Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Saturday, August 01, 2009 2:02 PM
To: Terri Fulton
Subject: Re: NB ILLEGAL BALLOT DIDNT DISCLOSE - TATTN -TONGVA BURIAL AREA- ALSO DIDNT DISCLOSE WETLANDS ISSUE-

LSA DID THIS NOP--WITH NB? IT SEEMS LSA DIDNT DISCLOSE THE INFORMATION OR DISCUSS, EITHER IN WHICH

LEAVES US -TONGVA BASICALLY IN/UNSIGNIFICANT TO THEM - NO INPUT ON SO CALLED PARK ON OUR BURIAL AREA AND SACRED SITE-

SO THIS PROJECT LOOKS TO ME TO BE MORE MESSED TO ME LEGALLY THAN I THOUGHT--

NOTE- I AM JUST SENDING THIS AS I GO SO DONT FEEL COMPELED TO ANSWER ON YOUR WEEK END -OK --JT

d) Disturb any human remains, including those interred outside of formal cemeteries?

[ITS CHECKED-

On Fri, Jul 31, 2009 at 8:25 PM, Johntommy Rosas <tattnlaw@gmail.com> wrote:

The park, which is located between MacArthur, Avocado and San Miguel, was donated to the city as a park in exchange for development rights elsewhere, planned as a park and reaffirmed as a park by voters in last year's election. The park currently provides one of the best public ocean views in the city and will have traditional open grass areas, a gazebo for weddings and events and a tot lot. This measure violates Greenlight, the voter-approved general plan, the action of city council and the expressed position of neighborhood associations.

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Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Saturday, August 01, 2009 2:05 PM
To: Terri Fulton
Subject: Re: NB ILLEGAL BALLOT DIDNT DISCLOSE - TATTN -TONGVA BURIAL AREA- ALSO DIDNT DISCLOSE WETLANDS ISSUE-

V. CULTURAL RESOURCES. Would the project:

a) Cause a substantial adverse change in the significance of a historical resource

as defined in §15064.5? [CHECKED AS --NO IMPACT --THATS A COMPLETE LIE AND FALSEFICATION AS BELOW THE BURIALS ARE NOTED--

.....
On Fri, Jul 31, 2009 at 8:25 PM, Johntommy Rosas <tattnlaw@gmail.com> wrote:

The park, which is located between MacArthur, Avocado and San Miguel, was donated to the city as a park in exchange for development rights elsewhere, planned as a park and reaffirmed as a park by voters in last year's election. The park currently provides one of the best public ocean views in the city and will have traditional open grass areas, a gazebo for weddings and events and a tot lot. This measure violates Greenlight, the voter-approved general plan, the action of city council and the expressed position of neighborhood associations.

--
JOHN TOMMY ROSAS
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8/14/2009

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Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Saturday, August 01, 2009 2:10 PM
To: Terri Fulton
Subject: Re: NB ILLEGAL BALLOT DIDNT DISCLOSE - TATTN -TONGVA BURIAL AREA- ALSO DIDNT DISCLOSE WETLANDS ISSUE-

MORE FRAUD-- FALSIFICATION OF A PUBLIC ENTITY--JUST WHAT LSA REPORT SHOWS THIS IS TOTALLY FALSE-

NB AND LSA HAVE SOME EXPLAINING TO DO-

AND WE HAVE SUFFERED DAMAGES FROM THOSE FALSE STATEMENTS CONTAINED IN NOP -- ILLEGAL NOP--

.....PAGE 27.....

d) Potentially Significant Impact. There are no known human remains interred on site. In the unlikely event that human remains are encountered during project grading, the proper authorities would be notified, and standard procedures for the respectful handling of human remains during the earthmoving activities would be adhered to in compliance with State Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.98.

On Fri, Jul 31, 2009 at 8:25 PM, Johntommy Rosas <tattnlaw@gmail.com> wrote:

The park, which is located between MacArthur, Avocado and San Miguel, was donated to the city as a park in exchange for development rights elsewhere, planned as a park and reaffirmed as a park by voters in last year's election. The park currently provides one of the best public ocean views in the city and will have traditional open grass areas, a gazebo for weddings and events and a tot lot. This measure violates Greenlight, the voter-approved general plan, the action of city council and the expressed position of neighborhood associations.

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Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Saturday, August 01, 2009 3:31 PM
To: Terri Fulton
Subject: Re: NB ILLEGAL BALLOT DIDNT DISCLOSE - TATTN -TONGVA BURIAL AREA- ALSO DIDNT DISCLOSE WETLANDS ISSUE-

I THINK LSA SHOULD GIVE ME ALL DOCUMENTS -REPORTS ETC THAT THEY HAVE ON THIS PROJECT AND THE SAME FOR THE OTHER SITES IN THAT AREA -NB IN GENERAL-

ITS OUR RIGHT TO KNOW WHATS HAPPENED [THERE] SO FAR AND WITHOUT THE TRANSPARENCY AND RESPECT TO US -

ITS REALLY HARD TO BELIEVE THIS IS GOING TO BE A FAIR AND LEGAL PROCESS -SO FAR IT ISNT--JT

On Fri, Jul 31, 2009 at 8:25 PM, Johntommy Rosas <tattnlaw@gmail.com> wrote:

The park, which is located between MacArthur, Avocado and San Miguel, was donated to the city as a park in exchange for development rights elsewhere, planned as a park and reaffirmed as a park by voters in last year's election. The park currently provides one of the best public ocean views in the city and will have traditional open grass areas, a gazebo for weddings and events and a tot lot. This measure violates Greenlight, the voter-approved general plan, the action of city council and the expressed position of neighborhood associations.

--
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Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Saturday, August 01, 2009 5:24 PM
To: Terri Fulton
Subject: Re: NB ILLEGAL BALLOT DIDNT DISCLOSE - TATTN -TONGVA BURIAL AREA- ALSO DIDNT DISCLOSE WETLANDS ISSUE-

The Initiative states that its provisions shall supersede any conflicting provisions of the General Plan or Municipal Code, and to the extent permitted by law, authorizes and directs the City to amend the General Plan, Municipal Code and other policies and regulations to implement the Initiative as soon as possible to ensure consistency and correlation between the Initiative, General Plan and Municipal Code.

CITED FROM MEASURE B- SO NO LAW CAN BE VIOLATED WHICH THEY HAVE DONE AND INCLUDING THE MEASURE B AND ITS PROCESS -LEGAL OR ILLEGAL NOTIONS--

On Fri, Jul 31, 2009 at 8:25 PM, Johntommy Rosas <tattnlaw@gmail.com> wrote:

The park, which is located between MacArthur, Avocado and San Miguel, was donated to the city as a park in exchange for development rights elsewhere, planned as a park and reaffirmed as a park by voters in last year's election. The park currently provides one of the best public ocean views in the city and will have traditional open grass areas, a gazebo for weddings and events and a tot lot. This measure violates Greenlight, the voter-approved general plan, the action of city council and the expressed position of neighborhood associations.

--
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LSA Telephone Conversation Log

Date: August 3, 2009, 11:00 a.m.

Contact: John Tommy Rosas, Tongva Ancestral Territorial Tribal Nation

Subject: CEQA Consultation for the Newport Beach City Hall and Park Development Plan (LSA Project No. CNB0901)

The following comments/concerns were conveyed by Mr. Rosas:

- The disturbance of the site that is in the project area does not lessen the significance of the site, nor does the claim that the human remains have been removed. The soil itself is a part of the burial remains and continues to be sacred. Also, the process of rain washing the soil and carrying the human remains back to the ocean is part of the natural cycle and our belief system. Watering the area with reclaimed water or other artificial means is contrary to that belief. The attached letter from the Native American Heritage Commission regarding water rights and the Tongva Ancestral TER--- Tribal Nation (TATTN) describes in detail how important water and water resources are to the Tribe.
- As for the park, this was not discussed with TATTN until after it was already part of the design. If it had been, other ideas could have been considered such as cleaning up the area of debris but keeping it separate from the rest of the park so that people are not tromping all over it. A trail around the outside for people to walk on that won't impact the burial area is one idea. Also, how about keeping the area as a separate place for Indigenous Tribal People, a place that will never be messed with again?
- The site on the property is not the City's to own and there should be some concessions by the City to keep the area in its natural state and as a place dedicated to Indigenous Tribal People, past, present and future.
- TATTN requests that a study consisting of ground penetrating radar be performed over the entire property prior to any ground disturbance. Ground penetrating radar is a non-invasive, non-destructive method of determining what is buried below the surface. We need to determine if additional human remains or features are present so that they can be avoided and left undisturbed.

By: TPF

Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Monday, August 10, 2009 4:43 PM
To: Terri Fulton
Subject: Re: CNB EIR schedule

ACTUALLY ALL MY EM'S ARE CONF NOTICED AND CANT BE USED-- UNLESS I CONSENT WHICH I HAVE TO SOME -OF THEM- THE BEST SUGGESTION FROM ME -TO LSA AND NB- I NEED TO SEE WHAT IS PLANNED TO BE DISCLOSED-ITS MY CALL NOT LSA'S OR NB'S--SEE BELOW- JT

.....CONF NOTICE.....

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.....

On Mon, Aug 10, 2009 at 4:34 PM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

Yes, NB knows that we are responding and will definitely be copied. As far as the information we have exchanged, we will include everything that we have done since June 10 (which is when the consultation began) in the EIR – except that we are being careful about exposing the area as a site. This will be in public review and that information is confidential and not for the public; but we will describe our formal exchanges and note that the consultation with you is ongoing. Also, this is the first DRAFT EIR. There will be comments on the EIR and those will have to be addressed.

I'll have that response to you tomorrow without fail and then we can discuss that.

The City is focused on trying to meet with you to have a face-to-face discussion. The thing I'm concerned about is, if you would like the results of a meeting to be in the EIR, we should do it this week or next. Is it possible to schedule a meeting? It doesn't have to be down here in Irvine or Newport Beach. We will come to you.

Also, if you send a format that you prefer, I'm sure the City will agree to it.

From: Johntommy Rosas [mailto:tattnlaw@gmail.com]
Sent: Monday, August 10, 2009 4:08 PM
To: Terri Fulton
Subject: Re: CNB EIR schedule

OK- WELL - SO THE DEIR IS GOING TO BE SENT OUT IN 2 WEEKS-AND THE INFORMATION WE HAVE EXCHANGED AND THOSE ISSUES WONT BE IN THERE -INTERESTING-

I ALSO KNOW SOME OF THE TC IS CONFIDENTIAL --AND NB OR LSA CANT PUBLISH IT WITHOUT MY PERMISSION-

I AM GOING THRU THAT COURT RECORD ISSUE NOW ON THE BALDWIN HILS LITIGATION-

LA COUNTY DECLARED IT CONFIDENTIAL AND PRIV- THEY ENDACTED MY EM'S AND CLAIM ATTY -CLIENT PRIV--

WHICH PO'D THE ENVIROS--LOL SO -- ITS AN ISSUE ALSO--

AGAIN WITH OUT AND AGREED FORMAT --NB AND LSA WILL BE BREAKING THE LAW[S]

-I GUESS I WILL HAVE TO WAIT UNTIL I SEE WHAT LSA SAYS --DO NB KNOW WE/YOU/ LSA IS RESPONDING AND WILL THEY NB BE CC'D OR PART OF THAT RESPONSE?

IT SOUNDS LIKE NOTHING IS CHANGING AND LSA AND NB WILL HOLD THEIR COLLECTIVE POSITIONS- LEGAL OR NOT--

WHICH IS GOOD TO KNOW THE SOONER THE BETTER- FOR ME-----HOPE YOUR WELL----
THANKS--JT

8/14/2009

On Mon, Aug 10, 2009 at 3:47 PM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

Hi John Tommy,

Here is what I found out about the schedule. We are currently writing the EIR, and it is scheduled to be released for Public Review around September 1, 2009. You will get a copy. Public Hearings could be scheduled as early as November 2009.

As you know, LSA is currently working on responses to the email comments you sent on August 1, 2009. I should have that to you by tomorrow, and then we can talk about the next steps. If you would like to meet with me and/or the City so that we can include that as part of the consultation in the EIR, please let me know soon.

Thanks,

Terri Fulton

Archaeologist/Senior Cultural Resources Manager

Native American Consultation

LSA Associates, Inc.

20 Executive Park, Suite 200

Irvine, CA 92614-4731

Phone (949) 553-0666

Fax (949) 553-8076

Wireless (949) 337-5454

--
JOHN TOMMY ROSAS
TRIBAL ADMINISTRATOR

8/14/2009

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August 13, 2009

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Administration
(sent by email)

Subject: Response to Comments on the Newport Beach City Hall and Park Development Plan

Dear Mr. Rosas:

Thank you for your continued input on the Newport Beach City Hall and Park Development Plan (project). This letter contains LSA Associates, Inc.'s (LSA) responses to the concerns you expressed in a series of emails sent to Terri Fulton, LSA Native American Coordinator, on August 1, 2009, as a result of your receipt of the Initial Study/Notice of Preparation (IS/NOP) for the project. A bulleted summary of each of your concerns is numbered below with the responses to comments in italics.

- 1) The park was donated to the City of Newport Beach (City) in exchange for development rights elsewhere. Measure B, the measure designating the park as the location of the proposed project, is therefore illegal.

Measure B was legally approved by 53 percent of the voters in a legitimate ballot initiative, which amended the City Charter requiring City Hall to be located on the proposed project site.

- 2) The City is either not complying with Section 106 of the National Historic Preservation Act (Section 106), or is ignoring the involvement of federal agencies in the project, and therefore not complying with the National Environmental Policy Act (NEPA) and Section 106. The following responsible agencies listed in the IS/NOP were cited:

California Department of Fish and Game

This is a state agency.

United States Army Corps of Engineers

While this is a federal agency, it has no jurisdiction over the project at this time. No Section 404 permit is required because the wetlands located on the subject property will not be filled or otherwise impacted.

State Water Resources Control Board

This is a state agency.

Regional Water Quality Control Board

This is a state agency.

Orange County Airport Land Use Commission

This is not a federal agency, but a local agency that oversees airport land use and impacts in Orange County.

Federal Aviation Administration

While this is a federal agency, no permits or other activities are being required by this agency. It is monitoring the heights of the structures to make sure that they do not impede air traffic.

In conclusion, there are no federal permits required for the project; there is no federal funding for the project; and there is no federal action that would qualify the project as a federal undertaking. Therefore, no NEPA or Section 106 compliance is required for the project.

The environmental studies for the project are being conducted under the California Environmental Quality Act (CEQA). The City is the Lead Agency and, because it is a local agency, there is no legal basis for the City to consult with you under Section 106 of NEPA, as these regulations are inapplicable. That said, the CEQA Guidelines for consultation have been written to mirror those of Section 106 and to provide a forum for meaningful consultation. Therefore, it is the City's opinion that nothing is lost by consulting under CEQA as opposed to Section 106. If there is some aspect of consultation that you feel is missing by not consulting under Section 106, please advise so that it can be addressed.

- 3) There was no disclosure in the IS/NOP regarding the archaeological site or human remains within the project area, even though this is well known to the City and the information is included in LSA reports. This makes it appear as though the Tongva are basically insignificant to the City, and they are placing a park on a burial area and sacred site with no regard for its significance to the Tribe.

The concerns of the Tongva are not insignificant, and all information regarding the site and any human remains located within the project area will be fully considered and addressed in accordance with all applicable laws. This information was not disclosed in the IS/NOP because, as a protective measure, confidential archaeological site information to the public is restricted. Tribes can offer design options for site avoidance through consultation. This could be discussed in a meeting on site between you and the City, which can be scheduled at your earliest convenience. In addition, the purpose of an IS/NOP is to provide an initial assessment of whether a project has the potential to cause a substantial effect on the environment. This analysis for the Newport Beach City Hall and Park Development Plan Project suggested that potential adverse impacts could occur and that the project warranted preparation of an Environmental Impact Report (EIR). Preparation of the EIR, an exhaustive study of the project's potential environmental impacts, is now being prepared. Your input into this process is being sought through the City's continuing attempts to engage you in consultation about this project. If you would like to meet at the site and discuss these matters, please contact LSA to schedule a meeting.

- 4) In the IS/NOP analysis for Section 5, Cultural Resources, the box for "no impact" is checked with regards to: "a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?" However, there is a known prehistoric site and human remains were found in the project area.

The IS/NOP is a preliminary document that notifies the public that an EIR is being prepared for the project and asks that Responsible and Trustee Agencies provide detailed recommendations regarding the scope and content of the environmental document. It does not reflect the conclusions or recommendations of a formal Cultural Resources Assessment. A Cultural Resources Assessment for the project is being conducted by LSA as part of the environmental studies for the Draft EIR. The Draft EIR, also being prepared by LSA, will be circulated for public review in September 2009. Conclusions about the project area's sensitivity with regard to cultural resources will be detailed in the Cultural Resources Assessment, which will be appended to the Draft EIR. You will receive a copy of the Draft EIR for comment.

- 5) The IS/NOP analysis for Section 5, Cultural Resources has, "There are no known human remains interred on the site," in the discussion under "d". This is not true, as the LSA report discusses human remains.

The human remains that were discovered during test excavations conducted by LSA in 1996 were removed with the surrounding soil and reinterred elsewhere, under the direction of the Most Likely Descendant that was designated by the Native American Heritage Commission (NAHC) at that time. No additional human remains were recovered. To the best of our knowledge, there are no known human remains interred on the site.

- 6) Requests all documents and reports that LSA has for this project and also all documents related to other sites in the Newport Beach area.

LSA can provide the reports it has produced for this project with permission from the City. Other reports for the area can be obtained at the South Central Coastal Information Center located at California State University, Fullerton.

Thank you again for your input into the consultation process. As you are aware, LSA and the City have extended the invitation to meet with you several times since you entered into consultation with your email response on June 10, 2009, regarding the issuance of the IS/NOP. A meeting would be a productive way to move forward, and the City and LSA are willing to schedule the meeting to accommodate your needs. However, because of the nature of the project, the City cannot wait indefinitely for an opportunity to meet with you. Please advise as soon as possible when and if you will be able to meet with the City. In past communications, you mentioned the use of a "format" for the meeting that you wished to be in place before a face-to-face meeting was held. The City and LSA are unclear what you mean by this term, but would welcome a sample "format" that could be reviewed. The City respects your position, but the City must continue to move the project forward. The environmental review process is continuing, and it is important that your comments be addressed and included. The City and LSA look forward to meeting with you regarding these important issues.

Respectfully,

LSA ASSOCIATES, INC.


Steve Conking
Principal

Terri Fulton

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Friday, August 14, 2009 1:25 AM
To: Terri Fulton
Cc: Steve Conkling; Nicole Dubois; Murillo, Jaime; Dave Singleton
Subject: Re: Response to comments, Newport Beach City Hall and Park Development Plan

HI TERRI-

PLEASE GIVE THIS TO LSA /CONKLING- JUST A START TO MY RESPONSE --MORE SOON--THANKS
JOHNTOMMY

.....TATTN/ JTRRESPONSE

THIS IS MY RESPONSE -IT ISNT ALL I HAVE TO SAY JUST WANTED TO GET SOME POINTS TO
ADDRESS CONKLING'S /LSA LETTER

WELL I LOOKED THE LSA LETTER OVER--

IT HAS SOME TYPOS- 106 IS JUST FOR NHPA NOT NEPA-

UNLESS I CAN USE THAT ONE ALSO--

THE LSA CLAIM OF CEQA MIRRORS --SEC 106 NHPA IS HILARIOUS- IT ISNT EVEN CLOSE-

ALSO THE CLAIMED DETERMINATION BY CONKLING- OF NO 106 APPLICABLE IS WRONG

1 -THAT SITE IS ELIGIBLE FOR INCLUSION TO NHP LIST AND IS SO PROTECTED AND REQUIRES
THAT REVIEW-

WE JUST WENT THRU THAT AT BOLSA- SO HE IS TOTALLY WRONG-NAHC -TRUSTEE AGENCY--HAS
A NEW LETTER ON THAT ISSUE -

2 ACOE AND EPA, US FW- NOAA, NEPA- HAVE TO REVIEW ANY WETLAND THATS INVOLVED IN
THAT PROJECT-

AND THE ALREADY STATED THEY NEEDED TO GET A 404 -SO ARE THEY NOW WITHDRAWING
THAT CLAIM-?? YOU CANT ANYWAY-
QUOTE.....

Subject Waterway(s)

The Newport Village Park (proposed project) site includes two unnamed
drainages which flow to a
channel that ultimately terminates at Balboa Bay. They are both under the
jurisdiction of the United

States Army Corps of Engineers (USACE)

and California Department of Fish and Game (CDFG).

The site also includes two highly disturbed ephemeral ponded areas and a concrete drainage structure

that are not under the jurisdiction of USACE and CDFG.

The proposed project site includes approximately 0.50 acres of waters of the United States, of which

approximately 0.23 acres are wetlands, as regulated by the USACE, and approximately 1.12 acres of

waters of the state, of which approximately 0.23 acres are wetlands, as regulated by the CDFG.

.....

Two perennial drainage features supporting cat-tail marshes, described by Mr. Hamilton, were

determined to be under the jurisdiction of both USACE and CDFG. The drainage features contain a

definable bed and bank and drain into a channel which flows into Balboa Bay and ultimately to the

Pacific Ocean; therefore, the connectivity to a navigable water body required by USACE for a water

body to be considered jurisdictional is established.

.....

Jurisdictional areas within the proposed project site total 0.5 acres of waters of the United States,

including 0.23 acres of wetlands; and 1.12 acres of waters of the State, including 0.23 acres of

wetlands.

.....

The northern segment of the northern drainage and the eastern portion of the southern drainage meet

all 3 criteria for jurisdictional wetlands: a dominance of hydrophytic vegetation, hydric soils, and

wetland hydrology and, therefore, are considered wetlands in accordance with the criteria set forth in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1987). The northern drainage contains approximately 0.10 acres of wetlands and the southern drainage contains approximately 0.13 acres of wetlands.

.....

Based upon the results of the jurisdictional delineation, regulatory permits are not expected to be required if the project is designed to avoid all temporary and permanent construction activities within the two jurisdictional drainages, subject to concurrence by the USACE.

Such concurrence would involve a written request to the USACE for a jurisdictional determination.

The determination process includes a field meeting with the regulators and issuance of a determination letter.

If the proposed project will impact the two jurisdictional features in any way, including the construction of trails, footbridges, or temporary construction equipment crossings, MBA recommends early consultation with USACE, RWQCB, and CDFG to obtain permits under Section 404 and 401 of the Clean Water Act and Section 1600 of the California Fish and Game Code, respectively.

The proposed project site has a high potential to support the federally threatened coastal California gnatcatcher and a moderate potential to support the federally endangered San Diego fairy shrimp.

The site is located within the Reserve System of the Coastal Subregion of the County of Orange Natural Communities Conservation Plan (NCCP).

.....
United States Army Corps of
Engineers (ACOE)
Section 404 Permit for fill of riparian/wetland (exact permitting
requirements to be determined)

.....NOP-C OF NB-----

Have a substantial adverse effect on
federally protected wetlands as defined
by Section 404 of the Clean Water Act
(including, but not limited to, marsh,
vernal pool, coastal, etc.) through direct
removal, filling, hydrological
interruption, or other means? [CHECKED--X]

.....
potentially Significant Impact. There are no known human remains
interred on site. In the unlikely event that
human remains are encountered during project grading, the proper
authorities would be notified, and standard
procedures for the respectful handling of human remains during the
earthmoving activities would be adhered to in
compliance with State Health and Safety Code Section 7050.5 and Public
Resources Code Section 5097.98.

NOP PG 27 --THIS IS A COMPLETE FALSE STAEMENT-TONGVA BURIALS WERE DUG UP DURING LSA
-CITY OF NB FUNDED --STUDY TESTING-WHY-?TOTALLY ILLEGAL-

ALSO IT ISNT DISCLOSED HERE THAT IT IS A KNOWN BURIAL AREA

DO THEY OR YOU THINK THEY KNOW NO BURIALS EXIST -ITS A SACRED SITE NOW DAMAGED--

STILL SACRED AND HAS A BURIALS AS YOU CANT TAKE 100% OUT /REMOVE-BODY FLUIDS -
BLOOD -

ALL PART OF THE BURIALS REMAIN SO-- ITS STILL A BURIAL AREA--PERIOD-

ALSO I DEMAND TO KNOW WHO AUTHORIZED THE BURIALS REMOVED AND DESTROYED- DURING
A SO CALLED TEST STUDY--

THAT ISNT A TEST IN A BURIAL REMOVAL BASED ON WHAT AND WHO'S AUTHORITY--

I WANT ANSWERS TO THESE QUESTIONS- YOU SAY THE MLD WAS INVOLVED- ONLY WHEN THE
CORONERS CALLED IS A MLD APPOINTED-

WHAT WAS THAT CLAIMED PROCESS-- THIS STORY YOU SENT ME HAS MANY ILLEGAL FLAWS AND VIOLATIONS TO OUR RIGHTS-

LSA AND CITY OF NB AND THE CLAIMED INDIANS INVOLVED WILL BE HELD LIABLE AND RESPONSIBLE--

.....
I AM DISAPPOINTED IN THE TOTAL LACK OF DISCLOSURE- BY YOU CONKLING-FOR LSA-

I WILL RESPOND MORE SOON-

THE ABOVE REFERENCES SHOW CLEAR FEDERAL AREAS AND TRIGGERS FOR THE SEC 106 NHPA PROCESS-

SINCE YOU /LSA -CITY OF NB ARE NOW DENYING THOSE FEDERAL PROCESS REQUIREMENTS-TO ME TATTN AND OUR PEOPLE-

I WILL SEEK THE FEDERAL AGENCIES WITH JURISDICTIONS -TO BEGIN FULL NEPA -EIS REVIEWS-

SO NEPA-ACOE- US F AND W- ESA- NOAA - WILL ALL BE UPDATED ON THIS RESPONSE FROM YOU AND C OF NB AS THEY WERE AWARE AND MUST HAVE

AGREED TO THIS RESPONSE-TO TATTN-

I HAVE ALREADY CONTACTED ALL OF THEM- SO YOU KNOW-

AGAIN THIS LETTER OF YOURS IS OFFENSIVE- AND UNACCEPTABLE--

THIS IS A SACRED SITE TO ME AND TATTN AND OTHER TONGVA--WE SAY IT IS - IT WAS BEFORE ALL THE ILLEGAL OCCUPATIONS OCCURRED-

/S/ JOHNTOMMY ROSAS

On Thu, Aug 13, 2009 at 3:19 PM, Terri Fulton <Terri.Fulton@lsa-assoc.com> wrote:

Hi John Tommy,

Attached please find a response from LSA to concerns about this project that you conveyed to me by email on August 1, 2009.

Best Regards,

Terri Fulton

Archaeologist/Senior Cultural Resources Manager

Native American Consultation

LSA Associates, Inc.

20 Executive Park, Suite 200

Irvine, CA 92614-4731

Phone (949) 553-0666

Fax (949) 553-8076

Wireless (949) 337-5454

--
JOHN TOMMY ROSAS
TRIBAL ADMINISTRATOR
TRIBAL LITIGATOR
TONGVA ANCESTRAL TERRITORIAL TRIBAL NATION
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TRUTH IS OUR VICTORY AND HONOR IS OUR PRIZE >TATTN ©

APPENDIX C
RECORDS SEARCH LETTER

South Central Coastal Information Center
California State University, Fullerton
Department of Anthropology MH-426
800 North State College Boulevard
Fullerton, CA 92834-6846
714.278.5395 / FAX 714.278.5542
anthro.fullerton.edu/sccic.html - sccic@fullerton.edu
California Historical Resources Information System
Orange, Los Angeles, and Ventura Counties

February 10, 2009

SCCIC #9256.6215

Ms. Terri Fulton
LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614
949.553.0666

RE: Records Search for New City Hall and Parking Structure, LSA Job No. CNB0901

Dear Ms. Fulton,

As per your request received on February 4, 2009, a records search was conducted for the above referenced project. The search includes a review of all recorded archaeological sites within a 1-mile radius of the project site as well as a review of cultural resource reports on file. In addition, the California Points of Historical Interest (PHI), the California Historical Landmarks (CHL), the California Register of Historical Resources (CR), the National Register of Historic Places (NR), and the California State Historic Resources Inventory (HRI) listings were reviewed for the above referenced project. The following is a discussion of the findings.

Laguna Beach, Newport Beach, and Tustin CA. USGS 7.5' Quadrangles

ARCHAEOLOGICAL RESOURCES:

Twenty-eight archaeological sites (30-000065, 30-000070, 30-000071, 30-000072, 30-000104, 30-000137, 30-000138, 30-000139*, 30-000140, 30-000141, 30-000146, 30-000160, 30-000167*, 30-000189, 30-000190, 30-000198, 30-000199, 30-000200, 30-000201, 30-000204, 30-000205, 30-000215, 30-000217, 30-000229, 30-000883, 30-001002, 30-001117*, and 30-001461*) have been identified within a 1-mile radius of the project site. Four archaeological sites are located within the project site. No sites are listed on the Archaeological Determination of Eligibility (DOE) list. No isolates have been identified within a 1-mile radius of the project site. No isolates are located within the project site.
(* = Located within the project site)

HISTORIC RESOURCES:

Two additional cultural resources (30-176485, and 30-176800) have been identified within a 1-mile radius of the project site. No cultural resources are located within the project site.

Copies of our historic maps – Santa Ana (1896, 1901) 15' USGS - are enclosed for your review.

The California Point of Historical Interest of the Office of Historic Preservation, Department of Parks and Recreation, lists one property within a 1-mile radius of the project site (see below).

ORA-009 (Site of) 1953 National Boy Scout Jamboree
Present Location of Newport Center
Newport Beach
#30-162284

The California Historical Landmarks of the Office of Historic Preservation, Department of Parks and Recreation, lists no properties within a 1-mile radius of the project site.

The California Register of Historic Places lists one property within a 1-mile radius of the project site (see enclosed HRI list for property marked with a +). These are properties determined to have a National Register of Historic Places Status of 1 or 2, a California Historical Landmark numbering 770 and higher, or a Point of Historical Interest listed after 1/1/1998.

The National Register of Historic Places lists no properties within a 1-mile radius of the project site.

The California Historic Resources Inventory lists four properties that have been evaluated for historical significance within a 1-mile radius of the project site (see enclosed HRI properties list).

PREVIOUS CULTURAL RESOURCES INVESTIGATIONS:

Fifty studies (LA11, LA46, LA204, LA335, LA337, LA355, LA357*, LA568, LA569, LA606, LA666, LA677, LA756, LA775, LA893, LA960, LA1012, LA1052, LA1056, LA1071, LA1087, LA1120, LA1189*, LA1194, LA1342, LA1370, LA1458*, LA1531, LA1606, LA1642, LA1705, LA1733, LA1828, LA1908, LA2012, LA2123, LA2124, LA2137, LA2222, LA2535, LA2543, LA2544, LA2676, LA2977, LA2980, LA2994, LA3288, LA3325, LA3372, and LA3606) have been conducted within a 1-mile radius of the project site. Of these, three are located within the project site. There are 18 additional investigations located on the Laguna Beach, Newport Beach, and Tustin CA. 7.5' USGS Quadrangles that are potentially within a 1-mile radius of the project site. These reports are not mapped due to insufficient locational information.
(= Located within the project site)*

Please forward a copy of any resulting reports from this project to the office as soon as possible. Due to the sensitive nature of archaeological site location data, we ask that you **do not include** resource location maps and resource location descriptions in your report if the report is for public distribution. If you have any questions regarding the results presented herein, please contact the office at 714.278.5395 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.

Sincerely,
SCCIC



Michelle Galaz
Staff Researcher

Enclosures:

- (X) Maps – 7.5' USGS Quadrangle, 15' USGS Quadrangle – 8 pages
- (X) Bibliography – 17 pages
- (X) Bibliography of Unmapped Reports – 6 pages
- (X) HRI – 1 page
- (X) National Register Status Codes – 1 page
- (X) Site Records – (30-000065, 30-000070, 30-000071, 30-000072, 30-000104, 30-000137, 30-000138, 30-000139*, 30-000140, 30-000141, 30-000146, 30-000160, 30-000167*, 30-000189, 30-000190, 30-000198, 30-000199, 30-000200, 30-000201, 30-000204, 30-000205, 30-000215, 30-000217, 30-000229, 30-000883, 30-001002, 30-001117*, 30-001461*, 30-176485, 30-176800)
– 63 pages
- (X) Confidentiality Form
- (X) Invoice #9256.6215