

## **4.4 CULTURAL RESOURCES**

This chapter describes the regulatory framework and existing conditions in San Leandro related to cultural resources, and the potential impacts of the proposed project on cultural resources. Cultural resources include historically and architecturally significant resources, as well as archaeological and paleontological resources.

In compliance with Senate Bill (SB) 18, the Native American Heritage Commission (NAHC) and members of the Amah Mutsun Tribal Band of Mission San Juan Bautista, Coastanoan Rumsen Carmel Tribe, Indian Canyon Mutsun Band of Costanoan, Muwekma Ohlone Indian Tribe of the SF Bay Area, and The Ohlone Indian Tribe were contacted in writing on April 10, 2014 as part of the preparation of this Draft EIR.

### **4.4.1 ENVIRONMENTAL SETTING**

#### **4.4.1.1 REGULATORY FRAMEWORK**

This section describes the policies and regulations that apply to cultural resources in San Leandro.

#### **Federal Regulations**

The National Historic Preservation Act of 1966 established the National Register of Historic Places (National Register) as the official designation of historical resources, including districts, sites, buildings, structures, and objects. For a property to be eligible for listing in the National Register, it must be significant in American history, architecture, archaeology, engineering, or culture, and must retain integrity in terms of location, design, setting, materials, workmanship, feeling, and association. Resources less than 50 years in age, unless of exceptional importance, are not eligible for the National Register. Though a listing in the National Register does not prohibit demolition or alteration of a property, the California Environmental Quality Act (CEQA) requires the evaluation of project effects on properties that are listed in the National Register.

#### **State Regulations**

##### *The California Environmental Quality Act*

Section 15064.5 of the CEQA Guidelines states that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment. The CEQA Guidelines define four ways that a property can qualify as a historical resource for purposes of CEQA compliance:

- The resource is listed in or determined eligible for listing in the California Register of Historical Resources, as determined by the State Historical Resources Commission.
- The resource is included in a local register of historical resources, as defined in Section 5020.1(k) of the Public Resources Code, or identified as significant in a historical resource survey meeting the requirements of Section 5024.1(g) of the Public Resources Code, unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

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- The lead agency determines the resource to be significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California, as supported by substantial evidence in light of the whole record.
- The lead agency determines that the resource may be a historical resource as defined in Public Resources Code Sections 5020.1(j) or 5024.1 (CEQA Guidelines Section 15064.5) which means, in part, that it may be eligible for the California Register.

In addition, Public Resources Code Section 21083.2 and Section 15126.4 of the CEQA Guidelines specify lead agency responsibilities to determine whether a project may have a significant effect on archaeological resources. If it can be demonstrated that a project will damage a unique archaeological resource, the lead agency may require reasonable efforts for the resources to be preserved in place or left in an undisturbed state. Preservation in place is the preferred approach to mitigation. The Public Resources Code also details required mitigation if unique archaeological resources are not preserved in place.

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These provisions protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the NAHC as the authority to identify the most likely descendant and mediate any disputes regarding disposition of such remains.

### *California Register of Historic Resources (California Register)*

The California Register establishes a list of properties to be protected from substantial adverse change (Public Resources Code Section 5024.1). The State Office of Historic Preservation (OHP) has determined that buildings, structures, and objects 45 years or older may be of historical value. A historical resource may be listed in the California Register if it meets any of the following criteria:

- It is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
- It is associated with the lives of persons important in California's past.
- It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic value.
- It has yielded or is likely to yield information important in prehistory or history.

The California Register includes properties that are listed or have been formally determined eligible for listing in the National Register, State Historical Landmarks, and eligible Points of Historical Interest. Other resources that may be eligible for the California Register, which require nomination and approval for listing by the State Historic Resources Commission, include resources contributing to the significance of a local historic district, individual historic resources, historical resources identified in historic surveys conducted in accordance with OHP procedures, historic resources or districts designated under a local ordinance consistent with the procedures of the State Historic Resources Commission, and local landmarks or historic properties designated under local ordinance.

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### *California Historical Building Code, California Code of Regulations, Title 24, Part 8*

The California Historical Building Code, defined in Sections 18950 to 18962 of Division 13, Part 2.7 of Health, and Safety Code, provides regulations and standards for the rehabilitation, preservation, restoration (including related construction), or relocation of historical buildings, structures, and properties deemed by any level of government as having importance to the history, architecture, or culture of an area.

### *Health and Safety Code Sections 7052 and 7050.5*

Section 7052 of the Health and Safety Code states that the disturbance of Native American cemeteries is a felony. Section 7050.5 requires that construction or excavation be stopped in the vicinity of discovered human remains until the county coroner can determine whether the remains are those of a Native American. If determined to be Native American, the coroner must contact the California NAHC within 24 hours of this identification. A NAHC representative will then 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. In addition, CEQA Guidelines Section 15064.5 specifies the procedures to be followed in case of the discovery of human remains on non-federal land. The disposition of Native American burials falls within the jurisdiction of the NAHC.

### *Public Resources Code Section 5097*

Public Resources Code Section 5097 specifies the procedures to be followed in the event of the unexpected discovery of human remains on non-federal public lands. The disposition of Native American burials fall within the jurisdiction of the NAHC, which prohibits willfully damaging any historical, archaeological, or vertebrate paleontological site or feature on public lands.

### *Senate Bill 18*

SB 18, which went into effect January 1, 2005, set forth requirements for local governments (cities and counties) to consult with Native American tribes to aid in the protection of traditional tribal cultural places through local land use planning. The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early stage of planning for the purpose of protecting or mitigating impacts to cultural places. The purpose of involving tribes at these early planning stages is to allow consideration of cultural places in the context of broad local land use policy prior to the making of individual site-specific, project-level land use designations by a local government. Under SB 18, local governments are required to conduct consultation with California Native American tribes when a General Plan Amendment occurs or if open space is being developed for the first time.

### *Assembly Bill 52*

The Native American Historic Resource Protection Act (Assembly Bill 52 or AB 52), which went into effect July 1, 2015, sets forth a proactive approach intended to reduce the potential for delay and conflicts between Native American and development interests. AB 52 adds “tribal cultural resources” (TCR) to the specific cultural resources protected under CEQA, and requires lead agencies to notify relevant tribes about development projects. It also mandates lead agencies to consult with tribes if requested by the tribe, and sets the principles for conducting and concluding consultation.

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Projects subject to AB 52 are those that file a notice of preparation for an EIR or notice of intent to adopt a negative or mitigated negative declaration on or after July 1, 2015. The Governor's Office of Planning and Research (OPR) has until July 1, 2016, to develop guidelines, and the NAHC has until then to inform tribes which agencies are in their traditional area. In absence of the adopted guidelines, OPR suggests addressing if the project would cause a substantial adverse change in the significance of a TCR as defined in Public Resources Code 21074.

Under AB 52, a TCR is defined as a site, feature, place, cultural landscape (must be geographically defined in terms of size and scope), sacred place, and object with cultural value to a California Native American tribe that are either included or eligible for inclusion in the California Register of Historic Resources or included in a local register of historical resources. Or the lead agency, supported by substantial evidence, chooses at its discretion to treat the resource as a TCR.<sup>1</sup>

Because the Notice of Preparation for this EIR was filed prior to July 1, 2015, tribal consultation in compliance with AB 52 was not required for this EIR. Nonetheless, the evaluation of potential impacts to Tribal Cultural Resources (TCRs) is addressed below in Section 4.4.3, Impact Discussion, of this chapter.

### Local Regulations

Title 4, Public Welfare, Chapter 4-26, Historic Preservation, of the San Leandro Municipal Code (Municipal Code) establishes regulations for the identification, designation, protection, enhancement, perpetuation and use of historical resources including buildings, structures, objects, signs, features, sites, archaeological resources, cultural landscapes, places and areas within the city that reflect special elements of San Leandro's historical, architectural, archaeological, cultural or aesthetic heritage.<sup>2</sup> This chapter of the Municipal Code includes regulations for the recording, designation, and alterations to the historic resources within the city, as well as procedures for the demolition, destruction, relocation, or removal of a designated historic resource.

#### 4.4.1.2 EXISTING CONDITIONS

This section provides an overview of the history of San Leandro and of resources of historical significance that may be affected by the proposed project.

### Paleontological Resources

Paleontological resources (fossils) are the remains and/or traces of prehistoric plant and animal life exclusive of human remains or artifacts. Fossil remains such as bones, teeth, shells, and wood are found in the geologic deposits (rock formations) in which they were originally buried. Paleontological resources represent a limited, non-renewable, sensitive scientific and educational resource. The potential for fossil remains at a location can be predicted through previous correlations established between the fossil occurrence and the geologic formations where they were buried. For this reason, geologic knowledge of a particular area and the paleontological resource sensitivity of particular rock formations, make it possible

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<sup>1</sup> Public Resources Code (PRC) Sections 21074(a)(1) and (2).

<sup>2</sup> City of San Leandro Municipal Code Title 4, Public Welfare, Chapter 4-26, Historic Preservation, Article 1, Purpose, Section 4-26-100.

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to predict where fossils will or will not be encountered. However, a search of the of the University of California’s Museum of Paleontology at Berkeley database was completed and concluded there were no recorded fossil localities within San Leandro.<sup>3</sup>

### Archaeological Resources

Archaeological resources are the physical remnants of prehistoric or historic human activity. These can include human remains and artifacts, including, but not limited to, tools, portions of building structures or foundations, food, and refuse. San Leandro was home to Native Americans for more than 3,000 years before the first European settlers arrived. However, very few traces of native inhabitants remain today, although evidence of nearby sites and early records provides a picture of what life was like in the area prior to the arrival of Spanish explorers.<sup>4</sup> San Leandro is in the territory that was once controlled by the Ohlone Indians, commonly known as the Costanoans, at the time of the European settlement.

The Ohlone were hunter gatherers who settled in large, permanent villages, often situated near fresh water sources. Specifically, the areas around the San Lorenzo Creek, and in areas with a presence of well-drained soils, it would have been a likely area for prehistoric people to live or gather resources.<sup>5</sup>

According to the San Leandro 2002 General Plan,<sup>6</sup> archaeologists and historians have identified at least ten archaeological sites in the city between San Leandro Creek and San Lorenzo Creek. Further, there are few remaining traces of the first 100 years of European settlement in San Leandro.<sup>7</sup> An updated search of the archaeological basemaps at the Northwest Information Center, Sonoma State University confirmed that there are ten recorded archaeological sites in San Leandro.

### Historical Resources

#### *Local Historical Context*

As mentioned above, before the first European settlers arrived, the area now known as San Leandro was home to Native Americans for more than 3,000 years, and at least ten archaeological sites have been identified in the city between San Leandro Creek and San Lorenzo Creek consisting primarily of remnant shell mounds. Between 1820 and 1842, the area now known as San Leandro was divided through Spanish land grants; most of modern-day San Leandro was contained within the cattle ranches of Ignacio Peralta and Don Jose Joaquin Estudillo.<sup>8</sup> As settlers, squatters, and “49ers” arrived in the early 1850s, the town was laid out in a grid of streets and became the seat of Alameda County in 1856. A catastrophic earthquake destroyed the County Courthouse in 1868, causing the county seat to be relocated to Oakland. The agricultural town continued to prosper and was incorporated as a City in 1872, reaching 2,300 residents by the turn of the twentieth century. At this time, farms and orchards in the city produced

<sup>3</sup> Beard, Vicki, 2015, Tom Origer & Associates.

<sup>4</sup> City of San Leandro, 2002, *General Plan*, page 7-2.

<sup>5</sup> Beard, Vicki, 2014, *A Cultural Resources Survey for the San Leandro Shoreline Development Project*, page 3.

<sup>6</sup> City of San Leandro, 2002, *General Plan*, page 7-2.

<sup>7</sup> City of San Leandro, 2002, *General Plan*, page 7-2.

<sup>8</sup> City of San Leandro, 2002, *General Plan*, page 2-2.

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a variety of fruits and vegetables, including cherries, tomatoes, onions, potatoes, asparagus, sugar beets, rhubarb, and apricots.<sup>9</sup>

San Leandro continued to grow at a moderate pace during the first part of the twentieth century and had 14,000 residents by 1940.<sup>10</sup> Neighborhoods took shape, and railroad corridors running through the city were developed with industry. Downtown was the center of commerce and civic life. It was in the 1940s and 1950s that much of San Leandro's current form and character took shape. Nearly half of the city's current housing stock was added during this era, initially created by the need for wartime housing and sustained by veterans and their families. The city's neighborhood shopping centers and commercial strips along East 14<sup>th</sup> Street date from this period. The city was among the fastest growing industrial centers in the Bay Area during the post-war years, adding 6,000 manufacturing jobs between 1947 and 1954. By the 1960s, the city's pace of growth reached its natural limit; hills became barriers for expansion and the city's shoreline was acquired for park use and new development shifted to smaller infill sites around the city.

Today, virtually none of the early settlement architectural sites exist. One exception, the Alta Mira Club and original home of Ignacio Peralta, still stands and is a designated California Historical Landmark and has been on the National Register of Historic Places since 1978.<sup>11</sup> Several residential buildings built between 1870 and 1900 are still standing throughout the city, and were built in the vernacular or Victorian style of the time. From the early twentieth century, the Casa Peralta, originally built as a Victorian residence and remodeled as a Moorish villa in 1926, has been on the National Register of Historic Places since 1982.<sup>12</sup> Other structures of historic value within the city include distinctive commercial buildings from the early 1900s, such as the Daniel Best Building, and pre-World War II residential buildings characterized by well-maintained California bungalows, Craftsman and Prairie-style homes, and Mediterranean-style cottages.

Table 4.4-1 below identifies the historical resources throughout the city, and are shown on Figure 4.4-1.

### *Federally and State Recognized Historic Resources*

The National Register requires that buildings be 50 years or older or prior to eligibility for a listing, while the State OHP has determined that buildings, structures, and objects 45 years or older may be of historical value and are therefore eligible for inclusion on the California Register. Table 4.4-1 below identifies federally and State recognized historical resources within San Leandro.

### *Locally Recognized Historic Resources*

As shown in Table 4.4-1, the City of San Leandro has developed a list of historic and potentially historic buildings within its jurisdiction, which includes local, State, and federally designated historic properties.<sup>13</sup>

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<sup>9</sup> City of San Leandro, 2002, *General Plan*, page 2-2.

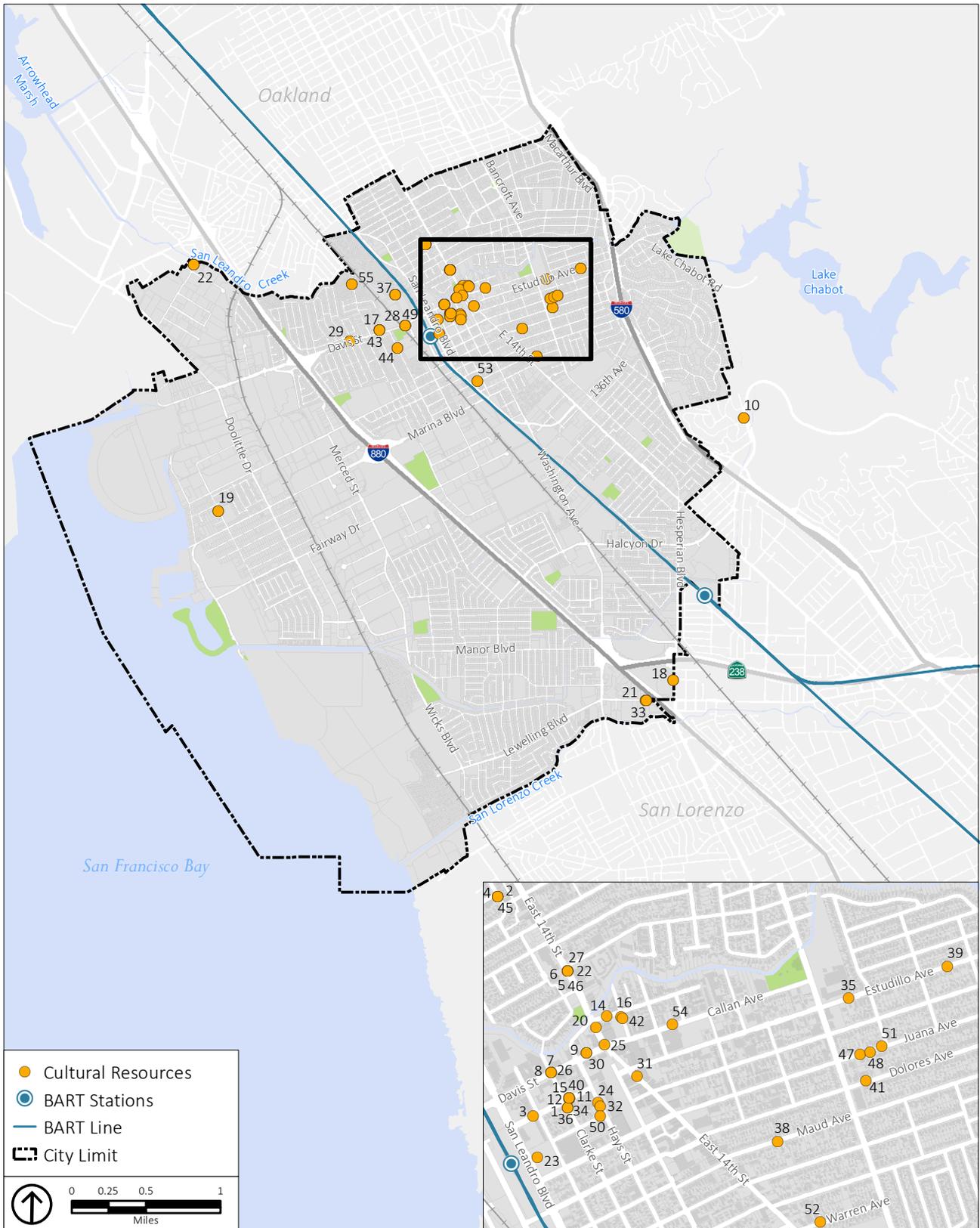
<sup>10</sup> City of San Leandro, 2002, *General Plan*, page 2-2.

<sup>11</sup> City of San Leandro, 2002, *General Plan*, page 7-2.

<sup>12</sup> City of San Leandro, 2002, *General Plan*, page 7-2.

<sup>13</sup> City of San Leandro, 2002, *General Plan*, pages 7-8 to 7-9.

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Source: City of San Leandro, 2014; Alameda County, 2013; PlaceWorks, 2014.

Figure 4.4-1  
**Historic Resources in San Leandro**

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TABLE 4.4-1 HISTORIC RESOURCES IN SAN LEANDRO

Number	Historic Resource	Location <sup>a</sup>	Listed
<b>National Register</b>			
1	Casa Peralta	384 W. Estudillo Avenue	1982
2	Peralta House	561 Lafayette Avenue	1978
<b>California Historical Landmarks</b>			
3	Estudillo Home (site)	550 W. Estudillo Avenue	1938
4	Peralta House	561 Lafayette Avenue	1938
5	Rancho San Antonio (Peralta Grant)	NW Corner of E. 14 <sup>th</sup> /Hays Street	1936
6	San Leandro Oyster Beds	North Dike Road	1968
<b>California Points of Historical Interest</b>			
7	Alameda Courthouse (site)	Davis and Clarke streets	1970
8	Alameda County Gazette Newspaper (site)	Davis and Clarke streets	1970
9	Best Tractor Company/Caterpillar Tractor Company (site)	250 Davis Street	1970
10	Calvary Cemetery	North end of Van Avenue	1971
11	Casa Peralta	384 W. Estudillo Avenue	1971
12	Daniel Best Home	1315 Clarke Street	1971
13	Jewish Synagogue	59 Chumalia Street (moved to back of lot)	1970
14	Little Brown Church	384 W. Estudillo Street (moved to this location)	1971
15	Manuel Garcia Home	1206 Hyde Street	1971
16	Mario J. Polvorosa Residence/Old Lamplighters Home	28 Dabner Street	1981
17	McConaghy House	18701 Hesperian Boulevard	1975
18	Mulford Clubhouse	13075 Aurora Drive	1971
19	Portuguese Union of the State of California (UPEC)	1120 E. 14th Street	1980
20	Robert's House	524 E. Lewelling Boulevard	1971
21	Robert's Landing Site	The mouth of San Lorenzo Creek	1970
22	San Leandro Ball Park (site)	San Leandro Boulevard at the BART station	1970
23	San Leandro Methodist Church (site)	1349 Hays Street	1970
24	San Leandro Plaza (site)	E. 14th and Davis streets	1970

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**TABLE 4.4-1 HISTORIC RESOURCES IN SAN LEANDRO**

<b>Number</b>	<b>Historic Resource</b>	<b>Location<sup>a</sup></b>	<b>Listed</b>
25	San Leandro Reporter (site)	Davis and Clarke streets	1971
26	San Lorenzo Cemetery	Hesperian Boulevard and College Street	1971
27	Southern Pacific Railroad Station, San Leandro Passenger	801 Davis Street	1971
28	Thrasher Park	1300 Davis Street	1971
29	San Leandro Town Hall (site)	250 Davis Street	1970
<b>Locally Recognized Historic Resources</b>			
30	Best Building	1300 East 14 <sup>th</sup> Street	
31	Blacksmith Shop	1363 Hays Street	
32	Captain William Roberts Home	526 Lewelling Boulevard	
33	Casa Peralta	384 W. Estudillo Street	
34	Colonial Revival Residence	659 Estudillo Avenue	
35	Daniel Best House	1315 Clarke Street	
36	Italianate Residence	397 Maud Avenue	
37	Italianate Residence	857 Estudillo Avenue	
38	Little Brown Church	384 W. Estudillo Street (moved)	
39	Little Shul	642 Dolores Avenue (moved)	
40	Manuel Garcia Home	1106 Hyde Street	
41	Mario J. Polvorosa Residence/Old Lamplighters Home	28 Dabner Street	
42	Orchard Street Neighborhood	1348-1470 Orchard Street	
43	Peralta House	561 Lafayette Avenue	
44	Redwood Trees	Corner of Juana and Bancroft	
45	Redwood Trees	647 Juana Avenue	
46	Redwood Trees	651 Juana Avenue	
47	Southern Pacific Railroad Station	801 Davis Street	
48	Victorian Residence	308 W. Joaquin Avenue	
49	Victorian Residence	678 Juana Avenue	
50	Victorian Residence	310-312 Warren Avenue	

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TABLE 4.4-1 HISTORIC RESOURCES IN SAN LEANDRO

Number	Historic Resource	Location <sup>a</sup>	Listed
51	Water Tank House	444 Harlan Street	
52	Water Tank House	254 Callan Avenue	
53	Water Tank House	383 Preda Street	

Note: Some historical resources are either listed on the National Register, State Register, or Local Register, or a combination of either of those designations.

a. Locations listed for California Places of Historical Interest refer to the location of where a plaque was erected by the State.

Source: Tom Origer & Associates, 2015; City of San Leandro, 2016.

### 4.4.2 STANDARDS OF SIGNIFICANCE

The proposed project would result in a significant cultural resource impact if it would:

1. Cause a substantial adverse change in the significance of a historical resource as defined in 15064.5.
2. Cause a substantial adverse change in the significance of an archeological resource pursuant to 15064.5.
3. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.
4. Disturb any human remains, including those interred outside of formal cemeteries.
5. Cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code 21074. (Because the Notice of Preparation for this EIR was filed prior to July 1, 2015, compliance with AB 52 was not required for this EIR. However, this threshold is included to provide a thorough analysis of potential impacts.)

### 4.4.3 IMPACT DISCUSSION

This section analyzes potential project-specific and cumulative impacts to cultural resources.

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**CULT-1                    The proposed project would not cause a substantial adverse change in the significance of a historical resource.**

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## Proposed General Plan Update

The types of cultural resources that meet the definition of historical resources under CEQA Section 21084.46 generally consist of districts, sites, buildings, structures, and objects that are significant for their traditional, cultural, and/or historical associations. Under CEQA, both prehistoric and historic-period archaeological sites may qualify based on historical associations.<sup>14</sup> As such, the two main historical

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<sup>14</sup> California Code of Regulation, Title 14, Chapter 3, Section 15064.5©, Determining the Significance of Impacts on Historical and Unique Archaeological Resources.

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resources that are subject to impact, and that may be impacted by development allowed under the proposed Plan, are historical archaeological deposits and historical architectural resources. The following impact discussion focuses on impacts to historical architectural resources. Impacts to archaeological resources are discussed under CULT-2, and human remains are addressed under CULT-4.

Development under the proposed Plan could cause a significant impact on historic resources by:

- Allowing development that would demolish a historic resource, which by definition would result in the material impairment of a resource's ability to convey its significance.
- Allowing development that would inappropriately modify an historical resource, which may include using incompatible materials, designs, or construction techniques in a manner that alters character-defining features.
- Permitting inappropriate new construction, which could introduce incompatible new buildings that clash with an established architectural context (e.g., a historic district).

As listed in Table 4-4.1, there are 46 recognized structures/sites in San Leandro that are identified historical resources. These resources include structures/sites designated at the federal, State, and local level. As described in Chapter 3, Project Description, future development under the proposed Plan would be focused within Priority Development Area's (PDAs), which include the Downtown and East 14<sup>th</sup> Street corridor, and potentially the Bay Fair area, which is preparing to become a PDA. As shown in Figure 4-4.1, recognized historical resources are located within these development areas. Therefore, by establishing the policy framework to guide new residential and non-residential development in areas where future development activities could either directly or indirectly adversely affect an historic resource, the proposed Plan could have the potential to impact historic resources.

Future development under the proposed Plan would be required to comply with existing federal, State, and local laws and procedures that protect historic resources. On a project-by-project basis, CEQA requires the evaluation and disclosure of significant effects on properties on historical resources listed in the National Register, California Register, or local register, and on properties determined to be significant by the lead agency or eligible for listing on the California Register. The California Historical Building Code provides standards for rehabilitating, preserving, restoring, and relocating historical resources. Chapter 4-26 of the City of San Leandro Municipal Code includes regulations for the recording, designation, and alterations to the historic resources within the city, as well as procedures for the demolition, destruction, relocation, or removal of a designated historic resource. Compliance with these existing regulations and procedures would ensure that future development allowed by the proposed Plan would not have a direct significant impact on a historical resource.

Even if the historical resources were retained as development and redevelopment occurs under the proposed Plan, future development under the Plan could cause a significant impact on historical resources if the new construction were incompatible with existing historic properties (for example, by introducing new construction that extends to all property lines in an area where the historical pattern is to have setbacks), or if the massing (height and bulk) or design details (materials and features) of the new construction were incompatible with existing historical resources. In this sense, the proposed Plan could impair the historic integrity of important resources with larger and denser new construction.

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The proposed Plan's Historic Preservation and Community Design Element includes goals, policies, and actions that aim to preserve, maintain, and reduce impacts to historic resources:

- **Policy CD-1.7: Protecting Resource Integrity.** Ensure that new development, alterations, and remodeling projects on or adjacent to historic properties are sensitive to historic resources and are compatible with the surrounding historic context. Ensure that the San Leandro Zoning Ordinance and any future design guidelines include the necessary standards and guidelines to implement this policy.
- **Policy CD-1.8: Relocation of Historic Structures.** Encourage the relocation of older structures into designated historic districts as an alternative to demolition and an incentive for restoration.
- **Policy CD-1.9: Maintenance and Rehabilitation.** Strongly encourage the maintenance and upkeep of historic properties to avoid the need for costly rehabilitation and demolition. Demolition should only be allowed if the City determines that it is necessary to protect health, safety, and welfare, and that the structure has no reasonable economic use.
- **Policy CD-2.1: Preservation and City Planning.** Recognize the importance of local historic and cultural resources in the City's long-range planning activities, including the General Plan, specific plans, and neighborhood or area plans. Maintain a historic preservation component in the General Plan, with periodic updates to reflect changing conditions, additional listings, and new preservation programs.
- **Policy CD-2.2: Planning and Building Decisions.** Ensure that day-to-day planning and building activities, including the issuance of building permits, demolition permits, zoning approvals, site plan approvals, and use permits, are consistent with and further the achievement of local historic preservation goals. The City's zoning and building codes should support the reuse and restoration of historic buildings.
- **Policy CD-5.4: Architectural Consistency.** In established neighborhoods, protect architectural integrity by requiring infill housing, replacement housing, and major additions or remodels to be sensitive to and compatible with the prevailing scale and appearance of adjacent development.

Compliance with existing federal, State, and local laws and regulations, and consistency with the proposed policies listed above would ensure that future development under the proposed Plan would not result in significant adverse effects to historic resources and the impact would be *less than significant*.

**Significance before Mitigation:** Less than significant.

## Proposed Zoning Code Amendments

The proposed amendments to the Zoning Code would bring the Zoning Code into conformance with the proposed Plan. The proposed Zoning Code would implement the proposed Plan and would help to guide development in key areas of the city. Proposed Zoning Code amendments would allow increased growth include increased building density, intensity (floor area ratio, or FAR), and height limits in commercial districts, including in areas with known historic resources, such as Downtown. Some proposed Zoning Code amendments could potentially allow future development that could increase the intensity and/or proximity of incompatible new buildings adjacent to historic resources. Specifically:

- Corner side yard setback requirements would be decreased to zero feet in the DA-1, DA-2, DA-3, DA-4 and DA-6 districts.

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- Allowable residential density on lots greater than 10,000 square feet in the DA-1 district would increase from 70 to 100 dwelling units per acre.
- Maximum non-residential FAR would increase from 2.0 to 3.5 in the DA-1 district.
- Maximum non-residential FAR would increase from 4.0 to 5.0 in the DA-6 district, for parcels adjacent to the BART station.

As described above, existing federal, State, and local regulations and procedures would protect historical resources from direct adverse effects. However, new development constructed with higher building density, intensity, or building heights may be inconsistent with nearby historical properties. As described above, the proposed Plan includes policies that would apply to new development allowed under the Zoning Code and would ensure compatibility with historical resources. Therefore, impacts from the proposed Zoning Code amendments would be *less than significant*.

**Significance before Mitigation:** Less than significant.

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**CULT-2                    The proposed project would not cause a substantial adverse change in the significance of an archeological resource pursuant to CEQA Guidelines Section 15064.5.**

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### Proposed General Plan Update

Archaeological deposits that meet the definition of historical resource under CEQA Section 21084.1 or CEQA Guidelines Section 15064.5 could be present in San Leandro and could be damaged or destroyed by ground-disturbing construction activities (e.g., site preparation, grading, excavation, and trenching for utilities) associated with development allowed under the proposed Plan. Should this occur, the ability of the deposits to convey their significance, either as containing information about prehistory or history, or as possessing traditional or cultural significance to Native American or other descendant communities, would be materially impaired.

Archaeologists and historians have identified at least ten archaeological sites in the city between San Leandro Creek and San Lorenzo Creek.<sup>15</sup> Further, there are few remaining traces of the first 100 years of European settlement in San Leandro.<sup>16</sup> As described in Chapter 3, Project Description, future development under the proposed Plan would be focused within PDAs, which include the Downtown, East 14<sup>th</sup> Street corridor, and potentially the Bay Fair area, where City efforts to make it a PDA are underway. Within these areas, there is one known archaeological site along the East 14<sup>th</sup> Street corridor. Because the proposed Plan is a citywide document that would guide development and redevelopment in all areas of the city, including in creekside areas where unknown buried archaeological deposits may be more likely to exist, it is unknown whether the proposed Plan would allow development on a site containing buried resources.

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<sup>15</sup> City of San Leandro, *General Plan*, page 7-2.

<sup>16</sup> City of San Leandro, *General Plan*, page 7-2.

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In the event that an archeological resources is uncovered during future development, existing State and local regulations and procedures would provide for the protection of discovered resources. CEQA requires the evaluation of impacts to archaeological resources on a project-by-project basis and outlines procedures to follow if an impact would occur. If it can be demonstrated that a project will damage a unique archaeological resource, the lead agency may require reasonable efforts for the resources to be preserved in place or left in an undisturbed state. The Public Resources Code also details required mitigation if unique archaeological resources are not preserved in place. Chapter 4-26 of the City of San Leandro Municipal Code establishes regulations for the identification, designation, protection, enhancement, perpetuation and use of archaeological resources.

In addition, the proposed Plan's Historic Preservation and Community Design Element includes policies and actions that would provide for the identification of archaeological deposits prior to actions that may disturb such deposits; the preservation and protection of such deposits; and the evaluation of unanticipated finds made during construction:

- **Policy CD-1.12: Archaeological Resources.** Recognize the potential for paleontological, prehistoric, historic, archaeological, and tribal cultural resources and ensure that future development takes the measures necessary to identify and preserve such resources.
- **Action CD-1.12.A: Archaeological Site Inventory.** Maintain standard conditions of approval for new development which require consultation with a professional archaeologist in the event that any subsurface paleontological, prehistoric, archaeological, or tribal cultural resource remains are discovered during any construction or preconstruction activities on a development site. This includes consultation with Native American organizations prior to continued site work in the event such remains are discovered.

Compliance with existing State and local laws and regulations, and the proposed policy and action listed above, would protect unrecorded archaeological deposits in San Leandro by providing for the early detection of potential conflicts between development and resource protection, and by preventing or minimizing the material impairment of the ability of archaeological deposits to convey their significance through excavation or preservation. Thus the impact to unique, buried archaeological deposits would be *less than significant*.

**Significance before Mitigation:** Less than significant.

## Proposed Zoning Code Amendments

The proposed amendments to the Zoning Code would bring the Zoning Code into conformance with the proposed Plan. The proposed Zoning Code would implement the proposed Plan and would help to guide development in key areas of the city. Proposed Zoning Code amendments that would allow increased growth include increased building density, intensity (FAR), and height limits in commercial districts. Future growth under the proposed Zoning Code amendments could affect unknown archaeological resources. As described above, existing State and local regulations and procedures, along with proposed Plan policies, would protect archaeological resources from adverse effects. Therefore, impacts from the proposed Zoning Code amendments would be *less than significant*.

**Significance before Mitigation:** Less than significant.

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**CULT-3**      **The proposed project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature.**

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### Proposed General Plan Update

A search of the of the University of California’s Museum of Paleontology at Berkeley database was completed and concluded there were no known or recorded fossil localities within San Leandro.<sup>17</sup> However, there could be fossils of potential scientific significance in geological formations that are not recorded in the database. It is possible that ground-disturbing construction associated with development allowed under the proposed Plan could reach significant depths below the ground surface. Should this occur, damage to, or destruction of, paleontological resources could result, which would prevent the realization of their scientific data potential through documentation and analysis.

In the event that a unique paleontological resource or site or unique geological feature is uncovered during future development, the proposed Plan’s Historic Preservation and Community Design Element includes policies and actions that would provide for the identification of paleontological deposits prior to actions that may disturb such deposits; the preservation and protection of such deposits; and the evaluation of unanticipated finds made during construction:

- **Policy CD-1.12: Archaeological Resources.** Recognize the potential for paleontological, prehistoric, historic, archaeological, and tribal cultural resources and ensure that future development takes the measures necessary to identify and preserve such resources.
- **Action CD-1.12.A: Archaeological Site Inventory.** Maintain standard conditions of approval for new development which require consultation with a professional archaeologist in the event that any subsurface paleontological, prehistoric, archaeological, or tribal cultural resource remains are discovered during any construction or preconstruction activities on a development site. This includes consultation with Native American organizations prior to continued site work in the event such remains are discovered.

Compliance with the proposed policy and action listed above would protect unrecorded paleontological resources or unique geological features in the planning area by providing for the early detection of potential conflicts between development and resource protection, and by preventing or minimizing the material impairment of the ability of paleontological deposits to convey their significance through excavation or preservation. Thus, the impact to paleontological resources or unique geological features would be *less than significant*.

**Significance before Mitigation:** Less than significant.

### Proposed Zoning Code Amendments

The proposed amendments to the Zoning Code would bring the Zoning Code into conformance with the proposed Plan. The proposed Zoning Code would implement the proposed Plan and would help to guide development in key areas of the city. Proposed Zoning Code amendments that would allow increased

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<sup>17</sup> Beard, Vicki, 2015, Tom Origer & Associates.

## CULTURAL RESOURCES

growth, include increased building density, intensity (FAR), and height limits in commercial districts. Future growth under the proposed Zoning Code amendments could affect unknown paleontological resources. As described above, proposed Plan policies would protect paleontological resources from adverse effects. Therefore, impacts from the proposed Zoning Code amendments would be *less than significant*.

**Significance before Mitigation:** Less than significant.

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**CULT-4**            **The proposed project would not disturb any human remains, including those interred outside of formal cemeteries.**

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### Proposed General Plan Update

Human remains associated with pre-contact archaeological deposits could exist within San Leandro and could potentially be encountered at the time future development under the proposed Plan occurs. The associated ground-disturbing activities, such as site grading and trenching for utilities, have the potential to disturb human remains interred outside of formal cemeteries. Descendant communities may ascribe religious or cultural significance to such remains, and may view their disturbance as an unmitigable impact. Disturbance of unknown human remains would be a significant impact.

Any human remains encountered during ground-disturbing activities are required to be treated in accordance with California Health and Safety Code Section 7050.5, Public Resources Code Section 5097.98 and the California Code of Regulations Section 15064.5(e) (CEQA), which state the mandated procedures of conduct following the discovery of human remains. According to the provisions in CEQA, if human remains are encountered at the site, all work in the immediate vicinity of the discovery shall cease and necessary steps to ensure the integrity of the immediate area shall be taken. The Alameda County Coroner shall be notified immediately. The Coroner shall then determine whether the remains are Native American. If the Coroner determines the remains are Native American, the Coroner shall notify the NAHC within 24 hours, who will, in turn, notify the person the NAHC identifies as the Most Likely Descendent (MLD) of any human remains. Further actions shall be determined, in part, by the desires of the MLD. The MLD has 48 hours to make recommendations regarding the disposition of the remains following notification from the NAHC of the discovery. If the MLD does not make recommendations within 48 hours, the owner shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance. Alternatively, if the owner does not accept the MLD's recommendations, the owner or the descendent may request mediation by the NAHC. Through mandatory regulatory procedures described above impacts to human remains would be *less than significant*.

**Significance before Mitigation:** Less than significant.

### Proposed Zoning Code Amendments

The proposed amendments to the Zoning Code would bring the Zoning Code into conformance with the proposed Plan. The proposed Zoning Code would implement the proposed Plan and would help to guide development in key areas of the city. Proposed Zoning Code amendments that would allow increased growth include increased building density, intensity (FAR), and height limits in commercial districts. Future growth under the proposed Zoning Code amendments could affect unknown human remains. As

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described above, existing State regulations would protect human remains resources from adverse effects. Therefore, impacts from the proposed Zoning Code amendments would be *less than significant*.

**Significance before Mitigation:** Less than significant.

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**CULT-5            The proposed project would not cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code 21074.**

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Because the Notice of Preparation for this EIR was filed prior to July 1, 2015, compliance with AB 52 was not required for this EIR. However, this threshold is included to provide a thorough analysis of potential impacts.

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As previously described in Section 4.4.1.1, Regulatory Framework, under the subheading “Native American Historic Resources Protection Act,” a TCR is defined under AB 52 as a site, feature, place, or cultural landscape that is geographically defined in terms of size and scope, sacred place, and object with cultural value to a California Native American tribe, and that is either included or eligible for inclusion in the California Register or local register of historical resources. Or, a resource can be determined to be a TCR if the City of San Leandro, acting as the lead agency, supported by substantial evidence, chooses at its discretion to treat the resource as a TCR.<sup>18</sup>

As discussed under CULT-2, archaeologists and historians have identified at least ten archaeological sites in the city between San Leandro Creek and San Lorenzo Creek.<sup>19</sup> There are no reported ethnographic sites within San Leandro. However, it is possible that an unknown TCR could be found during ground disturbing project construction activities.

In the event that a TCR is uncovered during future development, the proposed Plan’s Historic Preservation and Community Design Element includes policies and actions that would provide for the identification of paleontological deposits prior to actions that may disturb such deposits; the preservation and protection of such deposits; and the evaluation of unanticipated finds made during construction:

- **Policy CD-1.12: Archaeological Resources.** Recognize the potential for paleontological, prehistoric, historic, archaeological, and tribal cultural resources and ensure that future development takes the measures necessary to identify and preserve such resources.
- **Action CD-1.12.A: Archaeological Site Inventory.** Maintain standard conditions of approval for new development which require consultation with a professional archaeologist in the event that any subsurface paleontological, prehistoric, archaeological, or tribal cultural resource remains are discovered during any construction or preconstruction activities on a development site. This includes consultation with Native American organizations prior to continued site work in the event such remains are discovered.

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<sup>18</sup> Public Resources Code (PRC) Sections 21074(a)(1) and (2).

<sup>19</sup> City of San Leandro, *General Plan*, page 7-2.

## CULTURAL RESOURCES

- **Action CD-1.12.B: AB 52 Compliance.** Implement the provisions of AB 52 regarding tribal consultation. The City will provide opportunities for meaningful input regarding the protection of tribal resources from Native American representatives in the planning and development review processes.

Compliance with the proposed policy and actions listed above would protect unrecorded TCRs in San Leandro by providing for the early detection of potential conflicts between development and resource protection, and by preventing or minimizing the material impairment of the ability of archaeological deposits to convey their significance through excavation or preservation. Thus, the impact to TCRs would be *less than significant*.

**Significance before Mitigation:** Less than significant.

### Proposed Zoning Code Amendments

The proposed amendments to the Zoning Code would bring the Zoning Code into conformance with the proposed Plan. The proposed Zoning Code would implement the proposed Plan and would help to guide development in key areas of the city. Proposed Zoning Code amendments that would allow increased growth include increased building density, intensity (FAR), and height limits in commercial districts. Future growth under the proposed Zoning Code amendments could affect TCRs. As described above, policies and actions in the proposed Plan would protect TCRs from adverse effects. Therefore, impacts from the proposed Zoning Code amendments would be *less than significant*.

**Significance before Mitigation:** Less than significant.

#### 4.4.4 CUMULATIVE IMPACTS

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<b>CULT-6</b>	<b>The proposed project, in combination with past, present, and reasonably foreseeable projects, would result in less-than-significant cumulative impacts with respect to cultural resources.</b>
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As discussed in Chapter 4, Environmental Evaluation, of this Draft EIR, this EIR takes into account growth as projected by the proposed project within San Leandro and its Sphere of Influence (SOI), combined with impacts from projected growth in the surrounding region, based on Association of Bay Area Governments (ABAG) Projections. Cumulative impacts would occur when a series of actions leads to the loss of a substantial type of site, building, or resource. For example, while the loss of a single historic building may not be significant to the character of a neighborhood or streetscape, continued loss of such resources on a project-by-project basis could constitute a significant cumulative effect. This is most obvious in historic districts, where destruction or alteration of a percentage of the contributing elements may lead to a loss of integrity for the district overall. For example, changes to the setting or atmosphere of an area by adding modern structures on all sides of a historically significant building, thus altering the aesthetics of the streetscape, would create a significant impact. Destruction or relocation of historic buildings would also significantly impact the setting. However, similar to the proposed project, future projects throughout the city would be required to comply with existing federal, State, and local regulations, and the proposed Plan's policies and actions listed above.

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There are ten known archaeological resources with the city, and no known paleontological resources or human remains. Future development under the proposed project would have the potential to affect previously undiscovered resources, which could contribute to a cumulative impact on cultural resources. However, the existing federal, State, and local regulations, and the proposed Plan's policies and actions described throughout this chapter, serve to protect any as-yet-undiscovered cultural resources in San Leandro. Continued compliance with these regulations and the adoption and implementation of the proposed Plan's policies and action, would ensure that cumulative impacts to cultural resources would be *less than significant*.

**Significance before Mitigation:** Less than significant.

## **CULTURAL RESOURCES**