



TO: Planning Commission

FROM: Peter Imhof, Planning and Environmental Review Director

CONTACT: Lisa Prasse, Current Planning Manager

SUBJECT: Historic Preservation Ordinance; Case Number 2016-092 OA; City Wide

RECOMMENDATION

Review and provide direction to staff on the draft Cultural Resources provisions provided in Attachment 1.

BACKGROUND

Project Background

On June 21, 2016, the City Council approved a contract with Historic Resources Group (HRG) to assist staff with the development of a Historic Preservation program, including the development of a citywide context statement, a historic resources survey, and an ordinance. To assist with the work, Greenwood Associates (an archaeological firm) and Carlberg Associates (horticultural/registered consulting arborist firm) have been included as part of the team.

The development of a Context Statement was the first step in the process. A Context Statement is not a comprehensive history of the community but instead highlights the trends and patterns critical to the understanding of the setting of development within the appropriate historic, social, architectural, and cultural resource context. The cultural resource context portion provides insights from the Barbareno Band of Chumash Indians along with input from the scientific community regarding the archaeological importance of Goleta. As the chapters of the Context Statement were completed, each was made available for public comment as follows:

Built Environment:	September 2017
Archaeological Resources:	November 2017
Tree and Landscape Study:	November 2017
Planning Commission Review of Revised Comprehensive Context Statement:	January 2019
City Council Acceptable of Context Statement:	February 2019

The Context Statement was purposely not adopted at that time pending development of Eligibility Criteria (a component of the Ordinance). Following the Council acceptance in February 2019, the Planning Commission held three workshops/study sessions (between April – June 2019) to provide staff with guidance regarding the topics to be covered in the Ordinance.

While HRG was able to prepare a draft ordinance following the Planning Commission workshops in the summer/fall of 2019, the assigned City staff for this project was diverted to the Vehicle Miles Traveled California Environmental Quality Act Threshold Project (VMT CEQA Thresholds). The VMT CEQA Threshold project took precedent as it had firm deadline for implementation of July 1, 2020. As the Planning Commission is aware, the City Council adopted the VMT Thresholds in early July 2020.

Information/materials regarding the Historic Preservation project is accessible on the City's website at www.historicgoleta.org. Individuals interested in the project can also sign up to be notified of meetings and when new information/materials become available at the same web page (www.historicgoleta.org).

Prior Planning Commission Reviews

Proposed Chapter 17.43

On June 21, 2021, the Planning Commission commenced review of the proposed Archaeological and Tribal Cultural Resources provisions proposed to be adopted as Chapter 17.43. The Planning Commission and the public in attendance had several comments on the proposed draft regulations. The comments and responses to the comments are outlined in the discussion section below.

Proposed Chapter 17.33

On December 14, 2020, and March 29, 2021, the Planning Commission reviewed the materials related to Historic Resources and those properties that could be added to an eligibility list. The draft Historic Resources provisions were generally well received by the Planning Commission and public. A copy of the minutes from the March 29, 2021 minutes are provided as Attachment 3 to this report.

JURISDICTION

Final action on the Ordinance Amendment requests is the responsibility of the City Council (Subsection 17.50.030(A)). Chapter 17.66 (Amendments to Zoning Regulations and Zoning Maps) requires the Planning Commission to conduct a noticed public hearing on all proposed Ordinance Amendments and provide a recommendation to the City Council.

DISCUSSION

Attachment 1 is the second iteration of the working draft of the Archaeological and Tribal Cultural Resources provisions. Staff has provided a redline version incorporating the proposed changes into the June 21, 2021, draft as Attachment 2. In addition to responding to the comments provided by the Planning Commission and the public as noted below, staff has revised the ordinance to make it clear that the ordinance is applicable to both ministerial and discretionary projects, to incorporate General Plan Policy Open Space 8 language into the provisions as appropriate, and to refine the review process so that it is clearer as to what triggers a permit and what kind of permits are needed.

Planning Commission Considerations

As the Commission considers the materials associated with this item, the Commission should consider the following questions:

1. Are the proposed regulations regarding Cultural Resources “right-sized” for the City?
2. Do the proposed Cultural Resource provisions/regulations protect the type of resources that were identified to be important in the Context Statement?
3. Is the use of native soils an appropriate metric to use instead of the distance to a documented archaeological resource to require an Assessment?
4. Is the list of ministerial activities listed to be exempted in the applicability section (17.43.020) that would be subject to the provisions too broad or not broad enough?

Previous Comments and Revisions

The following section states the 18 primary comments that staff heard at the last meeting and provides a response to each of the comments.

Comment #1: Expand 17.43.010 language to include AB 52 language, indicate purpose is to increase Chumash visibility within the city, and add more examples to Item C.

Response: This revision has been made as suggested. In addition, language from the General Plan has been added here as well.

Comment #2: Suggested revisions to the list of exempt ground disturbing activities as follows: increase the amount of cubic feet of soil allowed to be disturbed; add an exemption for area beyond the buffer; add an exempt for on-going agricultural activities.

Response: Section 17.43.020(A) has been revised to increase the cubic feet of native soils disturbed, added an exemption for emergency projects, and added ongoing agricultural operations in areas with crop production. Further, upon consideration of input received, it is proposed that the metric for activities to be exempt not be based on the distance to a documented Archaeological and Tribal Cultural Resource but instead be based on whether the earth-disturbing activity affects native or non-native soils (i.e., fill soils). Please see Response to Comment #12.

Comment #3: Clarify if the proposed provisions of Chapter 17.43 can be applied to ADUs.

Response: Yes, the city can impose requirements on ADUs as long as they are objective in nature. Advance Planning has requested that this topic be tabled at this time in order for the issues to be considered with the Housing Element update.

Comment #4: Add a section that outlines what qualifies as a non-exempt project.

Response: Section 17.43.020(B) has been added to address this topic.

Comment #5: Suggestion made to define “landscape areas” as used within Chapter 17.43 and clarify when to require Extended Phase 1, if known resources are present.

Response: Section 17.43.030(A) (3) has been added to clarify when an Extended Phase 1 report would be required. However, the definition of landscape area in the context of Archaeological and Tribal Cultural Resources has not been added since this term is already defined in Title 17.

Comment #6: Requested that the phrase “known Resources” be changed to “documented Resources”.

Response: This change has been made throughout the document.

Comment #7: Suggestion made to add standards that would be applied to all earth disturbing activities.

Response: Section 17.43.040 has been added to provide development standards (i.e., stop work if unexpected resources or human burials are encountered, provision of on-site monitors as appropriate, etc.) that would be applied to permits.

Comment #8: Suggested language change to Section 17.43.050(A) as follows: “For all discretionary projects requiring a Minor CUP subject to CEQA review, the City shall consult with the California Native American Tribes in accordance with Public Resources Code § 21080.3.1.”

Response: The requested change has been made as applicable to projects resulting in a Minor Conditional Use Permit.

Comment #9: Suggested language change to Section 17.43.050(B) as follows: “For all ministerial projects for which a PAA or a Phase 1 Report is prepared, the City will make the studies available to Native American Tribes upon request.”

Response: The requested change has been made.

Comment #10: Request to add Coastal Band of Chumash Indians and that the City will seek data from all sources to Section 17.50.060(A)(15)(B).

Response: The requested changes have been made the applicable section.

Comment #11: Requested that the provisions of Chapter 17.43 be applicable to City projects in the same manner as property owners.

Response: City projects (including Capital Improvement Program (CIP) projects) are developed based on General Plan policies, adopted standards, and are subject to California Environmental Quality Act review. Where the review of City projects differs from private projects is that City projects are not subject to a permit for development in most cases in accordance with Section 17.53.020(X). The only City projects that are required to obtain a zoning permit are those that involve new development (not maintenance) in the Coastal Zone and development in ESHA in the Inland areas. While City projects do not have to obtain a zoning permit, the same public policy and environmental issues associated with a city project are vetted through the City Council.

Just like private development, City projects are exempt only if they do not disturb more than 4 cubic feet of native soils. Language is added to exempt City infrastructure projects from this ordinance if it is done within the existing footprint of the facility and does not disturb more than 4 cubic feet of native soils. This could involve maintenance, repair or replacement of existing roadways, stormwater facilities, and buildings, where native soils are not disturbed. However, an exception to this rule exists when the City project is an emergency project that is undertaken to mitigate the loss of or damage to life, property or essential services after a flood, earthquake, or other disaster pursuant to Public Resources Code section 21060.3.

Comment #12: Determine if the 250' buffer distance is the appropriate metric.

Response: Upon further consideration, the distance to a known site has been removed because it relies on data about known resources which may be incomplete for many portions of the city (i.e., there is no data on known resource in areas that have not been subject to previous studies). In addition, the potential to find resources hinges upon whether development is happening on native soils. The 250' buffer distance rule required a Phase I or PAA if earth disturbance were to occur within 250 feet of a known resource. However, an exception to the rule existed for any development that could show that it was not disturbing native soils, i.e., through a grading plan of existing development, which illustrates how disturbance of native soils is the true trigger and not any distance from a known resource. Therefore, the ordinance was streamlined to focus on native soils as the trigger for a permit and the 250' buffer distance requirement was eliminated.

Comment #13: Provide an estimate on how many ministerial permits might be affected.

Response: Staff has coordinated with the Building Division to get an idea of the number of projects that involve earth disturbing activities. The ability to search for this information is limited to how the permit was filled out so the information is only as good as the input. For example, a permit to add an EV charging station/unit may or may not list if trenching to extend an electrical conduit was included.

The below chart denotes the number of permits issued since January 2020 (unless otherwise noted) to the present of typical earth-disturbing activities:

PERMIT TYPE	NUMBER
Additions	88
Foundations	10
Grading	17 (Feb. 2020 – Present)
Patio Covers	10
Sewer Lines	54
Swimming Pools	7 (between July 2020- Present)
Water Lines	115
Total	294

The City issued a total of 1,667 permits (plumbing, mechanical, electrical, and building) for the same time period.

Comment #14: Request to add definitions of Qualified Native American monitor and Archaeological Monitor.

Response: Both of these terms have been added to the definition section.

Comment #15: Suggestion made to require every project in the city that involved earth disturbing activities prepare a Preliminary Archaeological Assessment (PAA) that is outside of the selected buffer and activities within the buffer prepare an Extended Phase 1.

Response: The proposed regulations have not been revised as suggested by Comment #16. Such a regulation would impose too great of a burden on property owners and would likely result in owners not seeking permits before engaging in earth disturbing activities. This ordinance must strike a balance between protecting resources and imposing an acceptable burden to the public. Regulations that impose too great a burden can led to noncompliance, which would defeat the goal of protecting resources.

Comment #16: Request for information regarding cost estimates for a typical PAA, Phase 1, and an Extended Phase1.

Response: The cost for such reports is dependent upon the size of the property, proximity to documented Archaeological and Tribal Cultural Resources, and the selected firm’s rate, which could vary widely. The consultant has provided the following information:

- Estimated Cost for a PAA ranges from \$1,500-\$2,500 (includes Information Center records search fees)

- Estimated Cost for a Phase 1 Report ranges from \$2,500 - \$5,000 (includes Information Center records search fees and presumes no PAA has been prepared previously)
- Estimated Cost for an Extended Phase 1 Report ranges from \$5,000-\$7,000 (includes Information Center records search fees).

Comment #18: Provide information on how local jurisdictions address ministerial level activities.

Response: Staff has contacted several nearby jurisdictions as requested. Please refer to Attachment 3 for the information from 13 jurisdictions.

Next Steps

After receiving the comments from the Planning Commission and the public on the Cultural Resource portion, staff will prepare a clean version of the ordinance with all of the changes for review and recommendation.

Additional meetings can be scheduled as needed in order to ensure adequate time for review and input. At such time as the Planning Commission has completed its review, staff will ask the Planning Commission to provide a formal recommendation to Council via Resolution.

Public Comment

After the June 28, 2021, Planning Commission meeting, staff received an email from Michael Glassow, UCSB Professor Emeritus of Anthropology. His email is provided in Attachment 4. In response to Professor's Glassow's comments:

1. The criteria regarding the distance of a project to a known resource (the size of the known resource was never a consideration) have been removed and the exemptions have been clarified based on other criteria.
2. Terms regarding the definition of a PAA and Phase I are defined in Section 9 (Amendment to Chapter 17.73). The two types of reports are similar, but differ in scope of work based on the current conditions of the project area, primarily based on the exposure (or lack thereof) of native sediments for examination by a Qualified Archaeologist through pedestrian survey.
3. Staff does not have the expertise to prepare a PAA and have relied upon an applicants to provide all required studies/reports/documents as part of the submittal application. Also, staff does not have the time to prepare these documents nor should the City bear the cost of the preparation of PAA.
4. The change suggested by Professor Glassow regarding the Information Center has been incorporated into Section 17.50.060(A)(15)(b). (This was already suggested by the Planning Commission.)

PUBLIC NOTICE

Notice of this public hearing has been provided in the following manner:

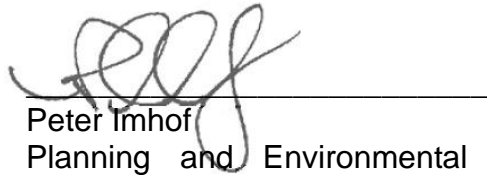
- An advertisement was published in the Santa Barbara Independent in both English and Spanish on August 12, 2021;
- On August 12, 2021, a) Gov Delivery email notice was sent to approximately 3,890 emails address to those on the Planning and Environmental Review, Planning Commission, and Historic Preservation lists in both English and Spanish; and b) and the information was shared on various social media platforms (Facebook, Twitter, etc.).

Legal Review by:

Approved by:



Winnie Cai
Assistant City Attorney



Peter Imhof
Planning and Environmental Review
Director

ATTACHMENTS:

1. Draft #2 Archaeological and Tribal Cultural Resource Provisions (Chapter 17.43)
2. Redline version of June 21, 2021, Draft Archaeological and Tribal Cultural Resources (Chapter 17.43).
3. Survey Of Jurisdictions Archaeological And Tribal Cultural Permit Requirements
4. Public Comment

ATTACHMENT 1

**Chapter 17.43 Archaeological and Tribal Cultural Resources
August 23, 2021, Draft**

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ATTACHMENT 1
Chapter 17.43 Archaeological and Tribal Cultural Resources
August 23, 2021, Draft

SECTION 7. Chapter 17.43 of the Goleta Municipal Code is renamed as “Archaeological and Tribal Cultural Resources” and added to read as follows:

Sections:

17.43.010	Purpose and Intent
17.43.020	Applicability
17.43.030	Site Assessment and Permit Requirements for Non-Exempt Development
17.43.040	Development Standards
17.43.050	Native American Communication

17.43.010 Purpose and Intent

The purpose of this Chapter is to establish standards for new development that is subject to discretionary or ministerial review and that could impact sensitive and protected Archaeological or Tribal Cultural Resources including sites, places, and landscapes of documented traditional cultural significance, within the City. This Chapter outlines the procedures and criteria for the identification and protection of these resources. Specifically, this Chapter is intended to:

- A. Preserve and protect Archaeological and Tribal Resources in accordance with PRC § 21084.3(b)(2), including:
 - 1. Protect the cultural character and integrity of the Archaeological and Tribal Cultural Resource.
 - 2. Protect the traditional use of the Archaeological and Tribal Cultural Resource.
 - 3. Protect the confidentiality of the Archaeological and Tribal Cultural Resource.
- B. Foster awareness, recognition, and stewardship of the City’s Archaeological and Tribal Cultural Resources; and
- C. Protect, restore, and enhance significant Archaeological and Tribal Cultural Resources, such as native villages; seasonal campsites; burial sites; stone tool quarry sites; hunting sites; traditional trails; sites with rock carvings or paintings; documented sacred sites and places of traditional cultural value, as identified by local Tribes including areas traditionally used to gather plants for food, medicinal, or economic purposes; and objects, features, and artifact scatters, including agricultural, ranching, mining, irrigation, utility, and transportation-related features (e.g., canals, fences, roads, refuse scatters, etc.).

17.43.020 Applicability

Unless exempted, new development that requires earth-disturbing activities shall be subject to the regulations and reporting requirements of this Chapter. This Section outlines the Exempt and Non-Exempt project types.

A. Exempt Development.

The following development is exempt from the requirements of this Chapter unless development is determined to be subject to 17.43.020(B):

1. Earth-disturbing activities affecting four cubic feet or less of native soils.
2. Earth-disturbing activities that will not disturb native soils, including:
 - a. Ongoing, active agricultural operations in areas continuously used for crop cultivation.
 - b. A City infrastructure project that does not involve earth disturbance beyond the footprint of the existing facility.
 - c. The proposed earth disturbing area is located within a previously disturbed area where evidence, as documented in as-builts plans, previous grading plans, or other documentary evidence, is provided that the previous earth disturbance affected depths equal to or greater than the development being considered; or
3. Interior alterations and improvements to existing structures that do not involve earth disturbing activities.
4. Proposed areas of earth disturbance of more than 4 cubic feet of native soils that meet at least one of the following criteria:
 - a. Emergency Projects as defined by Public Resources Code §21060.3 undertaken by the city.
 - b. A previous Preliminary Archaeological Assessment or a Phase 1 Report was prepared by a Qualified Archaeologist that includes the proposed disturbance area and documents that there are no documented resources within the proposed earth disturbing area and the proposed earth-disturbing area has little to no potential to contain subsurface Archaeological and Tribal Cultural Resources.

B. Non-Exempt Development.

The following development is not exempt and shall comply with the requirements of this Chapter.

1. Any development subject to ministerial or discretionary review involving earth disturbing activities of more than four (4) cubic feet of native soils that does not meet the exemptions listed above in subsection 17.43.020(A).

17.43.030 Site Assessment and Permit Requirements for Non-Exempt Development

A. Assessment Level Requirements. Non-exempt developments are subject to the following:

1. A PAA shall be required when the proposed earth disturbing area is located within a paved, developed, or ornamental landscaped area.
 - a. If the PAA reveals that the proposed disturbance area does not contain a documented Archaeological and Tribal Cultural Resource and the proposed area where earth disturbing activities are proposed has little or no potential to contain subsurface Archaeological and Tribal Cultural Resources, no

- further review is necessary, and the development is subject to the permit outlined in subsection 17.43.030(B)(2).
- b. If the PAA reveals that the proposed area where earth disturbing activities are proposed contains or potentially contains Archaeological and Tribal Cultural Resources, then the development shall be subject to the requirements outlined in subsections 17.43.030(A)(3) and (B)(3).
2. A Phase 1 Report shall be required when the proposed earth disturbing area is located within an area that is not paved, developed, or is located in an ornamental landscaped area. This applies even if the earth surface has sustained previous disturbances from grading, vegetation clearance, or other modifications.
 - a. If the Phase 1 report reveals that the proposed earth disturbance area does not contain a documented Archaeological and Tribal Cultural Resource and the proposed earth disturbance area has little or no potential to contain subsurface Archaeological and Tribal Cultural Resources, no further review is necessary and subject to the permit outlined in subsection 17.43.030(B)(2).
 - b. If the Phase 1 report reveals that the proposed earth disturbance contains or potentially contains Archaeological and Tribal Cultural Resources, then the development shall be subject to the requirements outlined in subsections 17.43.030(A)(3) and (B)(3).
 3. An Extended Phase 1 Report, shall be required, if it is determined in the judgment of Qualified Archaeologist when preparing a PAA or Phase 1 report, that Archaeological and Tribal Cultural Resources could be present.
 - a. If the Extended Phase 1 report reveals that the proposed earth disturbance area does not contain a documented Archaeological and Tribal Cultural Resource and the proposed earth disturbance area has little or no potential to contain subsurface Archaeological and Tribal Cultural Resources, no further review is necessary, and the development is subject to the permit outlined in subsection 17.43.030(B)(2).
 - b. If the Extended Phase 1 report reveals that the proposed earth disturbance area contains or potentially contains Archaeological and Tribal Cultural Resources, then the development shall be subject to the permit requirements outlined in subsection 17.43.030(B)(3).
- B. Permit Requirements. In addition to any other permits/approval needed pursuant to the provisions of Title 17, the following permits are required of non-exempt development:
1. Zoning Clearance. A Zoning Clearance shall be required for development subject to the site assessment provisions of 17.43.030(A)(1)(a), 17.43.030(A)(2)(a), 17.43.030(A)(3)(a)
 2. Minor Conditional Use Permit. A Minor CUP is required for development on a site that has Archaeological and Tribal Cultural Resources as identified in subsection 17.43.030(A)(1)(b), 17.43.030(A)(2)(b), and 17.43.030(A)(3) (b).

17.43.040 Development Standards

- A. The following standards are applicable to all permits issued under this chapter:
1. If Archaeological and Tribal Cultural Resources are encountered during earth disturbing activities, grading must be stopped immediately until a City-Qualified Archaeologist and local Chumash Native American consultant can evaluate the significance of the Archaeological and Tribal Cultural Resource pursuant to standards set forth in the Council Resolution No. 08-40, Environmental Thresholds and Guidelines Manual as amended.
 2. If human remains are uncovered as a result of earth -disturbing activities, work must stop immediately and the Planning and Environmental Review Department must be contacted, and the Applicant must follow the procedures identified by Public Resources Code § 5097.98.
 3. As applicable, recommendations identified in the Preliminary Archaeological Assessment, Phase 1 report, or Extended Phase 1 report and agreed upon by the City, must be implemented and printed on the approved building plans.
- B. For development that is subject to the Minor CUP requirement of subsection 17.43.030(B)(3), on-site monitoring by a qualified Archaeological Monitor and qualified Native American Monitor shall be required for all grading, excavation, and site preparation that involves earth disturbing activity.

17.43.050 Native American Communication

Development that is subject to the requirements of this Chapter shall be subject to the following requirements.

- A. For all development requiring a Minor CUP and subject to California Environmental Quality Act review, the City shall consult with California Native American Tribes in accordance with Public Resources Code § 21080.3.1.
- B. For all development requiring ministerial approval for which a Preliminary Archaeological Assessment or a Phase 1 Report is prepared, the City will make the studies available to Native American Tribes upon request.

SECTION 8. Amendment to Section 17.50.060(A)(15).

The following task is added to the Director’s duties and responsibilities:

15. Develop a listing and map of parcels within the city that are known to contain all or a portion of a documented Archaeological and Tribal Cultural Resource. This list and map shall:
 - a. Be used by the city to advise applicants and their qualified archaeological consultants whether the site of a proposed development is within an area that has been identified as sensitive for Archaeological and Tribal Cultural Resources.

- b. Include information available from the appropriate Information Center (IC) for Santa Barbara County and other relevant sources.
- c. Be developed in consultation with the Tribal Chair of the Barbareño, Coastal, Santa Ynez, and Ventureño Bands of Chumash Indians, and a Qualified Archaeologist.
- d. Be updated as the city receives new relevant information from archaeological studies, monitoring reports, and other related communications and consultations.

SECTION 9. Amendment to Chapter 17.73 List of Terms and Definitions

The following terms are added to the List of Terms (Section 17.73.010) and to Definitions (17.73.020):

- A. **Archaeological Resource.** An artifact, object, or site constituting material remains of past human life or activities.
- B. **California Register of Historical Resources (CRHR).** A State register that includes buildings, sites, structures, objects, and districts significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California that meet the criteria for designation in the CRHR as defined in Public Resources Code § 5020.1, as amended.
- C. **California Historical Resources Information System (CHRIS).** A system of records that consists of data from the California Office of Historic Preservation (OHP), Information Centers (ICs), and the State Historical Resources Commission (SHRC).
- D. **Earth-Disturbing Activities.** All activities that require disturbance of earth, dirt, ground, or soils (native and non-native soils), including but not limited to grading, grubbing, trenching, post-hole digging, and excavation for foundations, fencing, utilities, and other infrastructure.
- E. **Information Centers (ICs).** The official repository for a given county for cultural resources reports and site records as part of CHRIS.
- F. **Native Soils.** The original (i.e., non-fill) sediments that have not been previously disturbed from past grading or excavation activities.
- G. **Phase 1 Report.** A study prepared by a city-Qualified Archaeologist, that consists of an analysis of the property's potential for surface and buried Archaeological and Tribal Cultural resources and identification of the location, boundaries, and extent of any cultural resources located on the property, and a review of all of the following for the subject parcel and surrounding area: (1) city-wide archaeological sensitivity map; (2) environmental factors including geology; geomorphology; ecotones; water sources; availability and types of potentially exploited or used resources; and potential for caves, rock shelters, and mountain peaks; and (3) aerial photographs and historic maps to

determine presence of other potential factors affecting the presence or absence of either a prehistoric or historical site (e.g., parcel is in a river bottom). A Phase 1 Report requires a records search with the appropriate IC for Santa Barbara County to identify documented Archaeological and Tribal Cultural Resources and previous studies in and near the project site and requires on-site evaluation of the property by the Archaeologist, including a surface survey on foot.

- H. **Extended Phase 1 Report.** A report that includes all of the components of a Phase 1 Report, along with an evaluation of limited shovel test pits or other subsurface surveys as determined necessary by the Qualified Archaeologist for a complete analysis of the property to contain buried archaeological resources.
- I. **Preliminary Archaeological Assessment.** A site-specific report prepared by a city-qualified Archaeologist to assess the potential for the project area to contain Archaeological and Tribal Cultural resources and will determine the necessity for a Phase 1 Report. The assessment includes a review of all of the following for subject parcel and surrounding area: (1) prior archaeological survey(s) and reports; (2) resources listed on or eligible for listing on the National Register of Historic Places and/or the CRHR; (3) known archaeological site(s) including distance to subject parcel, nature, and type; (4) city-wide archaeological sensitivity map; (5) environmental factors including geology; geomorphology; ecotones; water sources; availability and types of potentially exploited or used resources; and potential for caves, rock shelters, and mountain peaks; (6) known and potential historical resources including distance to subject parcel; nature; location relative to historical town core and historical transportation routes, including rail, road, and trails; potential for privies based on date of sewer line installation; and locations of structures and infrastructure assessed by inspection of historical map; and (7) aerial photographs and historic maps to determine presence of other potential factors affecting the presence or absence of either a prehistoric or historical site (e.g., parcel is in a river bottom).
- J. **Qualified Archaeologist.** A person who meets the minimum education and qualifications in archaeology, anthropology, or closely related field to qualify as a Principal Investigator for Archaeology, as outlined in the Code of Federal Regulations, 36 CFR Part 61, has at least five years of professional archaeology experience in Santa Barbara County, and is familiar with the local Chumash culture.
- K. **Qualified Archaeological Monitor.** A person who has a bachelor's degree in Anthropology, Archaeology, or related field; has at least one year of experience in conducting archaeological fieldwork in California and is experienced in the recognition of prehistoric and historic-age archaeological materials; has been trained to work around construction equipment; and who is actively supervised by a city-qualified Archaeologist.
- L. **Qualified Native American Monitor.** A person who has been designated or authorized by a Native American Tribe to monitor construction activities and to serve as an on-site

representative of the Tribe; has been trained to work around construction equipment; and has been trained to recognize potential Tribal Cultural Resources.

- M. Traditional Cultural Significance.** This refers to the value of a place or object for its aesthetic, historic, social, or spiritual value for past, present, or future generations. Traditional cultural significance is embodied in the place or object, its fabric, setting, use, association, and meaning and differs from scientific value.
- N. Tribal Cultural Resource.** Cultural Resources include Native American archaeological sites and area of natural landscape that have traditional cultural significance. Further, pursuant to Public Resources Code § 21074(a), a resource that consists of unique or non-unique sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American Tribe and that are:
- a. Included in or determined to be eligible for inclusion in the California Register of Historical Resources (CRHR);
 - b. Included in a local register of historical resources; or
 - c. Determined by the lead agency, in its discretion and supported with substantial evidence, to be significant on the basis of criteria for listing in the CRHR after the lead agency takes into consideration the significance to the Tribe(s).

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ATTACHMENT 2

**Redline-Markup of Chapter 17.43
Archaeological and Tribal Cultural Resources
June 28, 2021, Draft**

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ATTACHMENT 2

Chapter 17.43 Archaeological and Tribal Cultural Resources June 28, ~~2021~~2021, Draft

SECTION 7. Chapter 17.43 of the Goleta Municipal Code is renamed as “Archaeological and Tribal Cultural Resources” and added to read as follows:

Sections:

- 17.43.010 Purpose and Intent
- 17.43.020 Applicability
- 17.43.030 ~~Reporting Requirements~~ Site Assessment and Permit Requirements for Non-Exempt Development
- 17.43.040 ~~Review Process~~ Development Standards
- 17.43.050 Native American ~~Consultation~~ Communication

17.43.010 Purpose and Intent

The purpose of this Chapter is to establish standards for new development that is subject to discretionary or ministerial review that could impact sensitive and protected Archaeological or Tribal Cultural Resources including site, places, and landscapes of documented traditional cultural significance within the City. This Chapter outlines ~~and to outline~~ the procedures and criteria for the identification and protection management of these resources. Specifically, this Chapter is intended to:

- A. Preserve and protect Archaeological and Tribal Cultural Resources, in accordance with Public Resource Code § 21084.3(b)(2) including; including sites and areas of the natural landscape that have traditional cultural significance
 - 1. Protect the cultural character and integrity of the Archaeological and Tribal Cultural Resource.-
 - 2. Protect the traditional use of the Archaeological and Tribal Cultural Resource.
 - ~~1-3.~~ Protect the confidentiality of the Archaeological and Tribal Cultural Resource.
- A-B. Foster awareness, recognition, and stewardship of the City’s Archaeological and Tribal Cultural Resources; and
- B-C. Protect, restore, and enhance significant Archaeological or Tribal Cultural Resources, such as native villages, seasonal campsites, burial sites, stone tool quarry sites, hunting sites, traditional trails, and sites with rock carvings or paintings; -documented sacred sites and places of traditional cultural value, as identified by local Tribes including areas objects, features, and artifact scatters, including agricultural, ranching, mining, irrigation, utility, and transportation-related features (e.g., canal, fences, roads, refuse scatters etc.)

17.43.020 Applicability

Any application for new development that requires earth-disturbing activities shall be subject to the regulations and reporting requirements of this Chapter.

~~A. Exemptions.~~

~~The following projects are exempt from Zoning Permits pursuant to this Chapter:~~

- ~~1. Minor landscaping activities that require less than two cubic feet of soil disturbance.~~
- ~~2. There are no known Archaeological or Tribal Cultural Resources within 250 feet of the proposed disturbance area and at least one of the following criteria is met:
 - ~~a. A previous Phase 1 Report was prepared by a Qualified Archaeologist, and the report clearly and adequately included the proposed disturbance area within the scope of its survey and the results of the survey were negative for the presence of archaeological resources.~~
 - ~~b. A previous Preliminary Archaeological Assessment was prepared by a Qualified Archaeologist that clearly includes the proposed disturbance area and documents that the proposed disturbance area has little to no potential to contain surface of buried archaeological resources.~~
 - ~~c. The proposed disturbance area is located within a previously disturbed area where evidence, as documented in as-builts plans, previous grading plans, or other documentary evidence, is provided that the previous ground disturbance affected depths equal to or greater than the project being considered; or~~
 - ~~d. The development involves no disturbance of native soil (i.e., undisturbed, non-fill sediments), such as:
 - ~~1. Replacement of existing posts for fences, decks, and similar improvements.~~
 - ~~2. Repair and maintenance of existing underground utilities that do not require excavation or trenching in native soils; or~~
 - ~~3. Other development of a similar character to those listed above.~~~~~~

Unless exempted, new development that requires earth-disturbing activities shall be subject to the regulations and reporting requirements of this Chapter. This Section outlines the Exempt and Non-Exempt project types.

A. Exempt Development.

The following development is exempt from the requirements of this Chapter unless development is determined to be subject to 17.43.020(B):

1. Earth disturbing activities affecting four cubic feet or less of native soils.
2. Earth disturbing activities that will not disturb native soils, including:
 - a. Ongoing, active agricultural operations in areas continuously used for crop cultivation.
 - b. A City infrastructure project that does not involve earth disturbance beyond the footprint of the existing facility.

A. Assessment Level Requirements. Non0exempt developments are subject to the following:

1. A PAA shall be required when the proposed earth disturbing area is located within a paved, developed, or ornamental landscaped area.
 - a. If the PAA reveals that the proposed disturbance area does not contain a documented Archaeological and Tribal Cultural Resource and the proposed area where earth disturbing activities are proposed has little or no potential to contain subsurface Archaeological and Tribal Cultural Resources, no further review is necessary and subject to the permit outlined in subsection 17.43.030(B)(2).
 - b. If the PAA reveals that the proposed area where earth disturbing activities are proposed contains or potentially contains Archaeological and Tribal Cultural Resources, then the development shall be subject to the requirements outlined in subsections 17.43.020(A)(3) and (B)(3).
2. A Phase 1 Report shall be required when the proposed earth disturbing area is located within an area that is not paved, developed, or in an ornamental landscaped area. This applies even if the earth surface has sustained previous disturbances from grading, vegetation clearance, or other modifications.
 - a. If the Phase 1 report reveals that the proposed disturbance area does not contain a documented Archaeological and Tribal Cultural Resource and the proposed area where earth disturbing activities are proposed has little or no potential to contain subsurface Archaeological and Tribal Cultural Resources, no further review is necessary and subject to the permit outlined in subsection 17.43.030(B)(2).
 - b. If the Phase 1 report reveals that the proposed area where earth disturbing activities are proposed contains or potentially contains Archaeological and Tribal Cultural Resources, then the development shall be subject to the requirements outlined in subsections 17.43.030(A) (3) and (B)(3).
3. An Extended Phase 1 Report, shall be required, if it is determined in the judgment of Qualified Archaeologist when preparing a PAA or Phase 1 report, that Archaeological and Tribal Cultural Resources could be present.
 - a. If the Extended Phase 1 report reveals that the proposed disturbance area does not contain a documented Archaeological and Tribal Cultural Resource and the proposed area where earth disturbing activities are proposed has little or no potential to contain subsurface Archaeological and Tribal Cultural Resources, no further review is necessary and subject to the permit outlined in subsection 17.43.030(B)(2).

b. If the Extended Phase 1 report reveals that the proposed area where earth disturbing activities are proposed contains or potentially contains Archaeological and Tribal Cultural Resources, then the development shall be subject to the permit requirements outlined in subsection 17.43.030(B)(3)

B. Permit Requirements. In addition to any other permits/approval needed pursuant to the provisions of Title 17, the following permits are required:

1. Zoning Clearance. A Zoning Clearance shall be required for development subject to the site assessment provisions of 17.43.030(A)(1)(a), 17.43.030(A)(2)(a), 17.43.030(A)(3)(a)
2. Minor Conditional Use Permit. A Minor CUP is required for development on a site that has Archaeological and Tribal Cultural Resources as identified in subsection 17.43.030(A)(1)(b), 17.43.030(A)(2)(b), and 17.43.030(A)(3)(b).

17.43.040 Permit Requirements Development Standards

~~When not exempt pursuant to 17.43.020(A), new development that is subject to the requirements of this Chapter shall be subject to the following review process.~~

~~A. If the Preliminary Archaeological Assessment or the Phase I Report reveals that the proposed disturbance area does not contain a known Archaeological or Tribal Cultural Resource, and the project is not located within 250 feet of a known Archaeological or Tribal Cultural Resource, and the proposed disturbance area has little or no potential to contain buried Archaeological or Tribal Cultural Resources, no further review is necessary.~~

~~B. If the Preliminary Archaeological Assessment or the Phase I Report reveals that the proposed disturbance area contains or potentially contains Archaeological or Tribal Cultural Resources, then the project requires approval of a Minor Conditional Use Permit.~~

A. The following permit standards are applicable to all earth disturbing activities:

1. If Archaeological and Tribal Cultural Resources are encountered during earth disturbing activities, grading must be stopped immediately until a City-Qualified Archaeologist and local Chumash Native American consultant can evaluate the significance of the Archaeological and Tribal Cultural Resource pursuant to standards set forth in the Council Resolution No. 08-40, Environmental Thresholds and Guidelines Manual as amended.
2. If human remains are uncovered as a result of earth -disturbing activities, work must stop immediately and the Planning and Environmental Review Department must be contacted, and the Applicant must follow the procedures identified by PRC § 5097.98.
3. As applicable, recommendations identified in the Preliminary Archaeological Assessment, Phase 1 report, or Extended Phase 1 report and agreed upon by the City, must be implemented and printed on the approved building plans.

- B.** For development that is subject to the Minor CUP requirement of subsection 17.43.030(B)(3), on-site monitoring by a qualified Archaeological Monitor and qualified Native American Monitor shall be required for all grading, excavation, and site preparation that involves earth-disturbing operations on site

17.43.050 Native American Communication Consultation

New development that is subject to the requirements of this Chapter shall be subject to the following consultation requirements.

- A. For all ~~development projects requiring a Minor CUP or other discretionary action~~ and subject to California Environmental Quality Act review, the City shall consult with California Native American Tribes ~~who have submitted a consultation request letter to the City to be added to the notification list to consult on projects under~~ in accordance with Public Resources Code § 21080.3.1.
- B. For all development requiring ministerial approval ~~properties~~ for which a Preliminary Archaeological Assessment or a Phase I Report is prepared, the City will make the studies available to Native American Tribes ~~and Councils~~ upon request.

SECTION 8. Amendment to Section 17.50.060(A)(15).

The following task is added to the Director's ~~of Planning and Environmental Review's~~ duties and responsibilities:

15. Develop a listing and /map of parcels within the city that are known to contain all or a portion of a known Archaeological or Tribal Cultural Resource. This list and /map shall ~~be subject to the following:~~
- a. ~~Be u~~Used by the City to advise permit aApplicants and their qualified archaeological consultants whether the site of a proposed project development is within an area identified as sensitive for 250 feet of a parcel that contains all or a portion of a known Archaeological or Tribal Cultural Resource.
 - ~~a.~~b. Include information available from the appropriate Information Center (IC) for Santa Barbara County and other relevant sources.
 - ~~b.~~c. Be dDeveloped in consultation with the Tribal Chair of the Barbareño, Coastal, Santa Ynez, and Ventureño Bands of Chumash Indians, and a Qualified Archaeologist.
 - ~~c.~~d. Be updated as the city receives new relevant information from archaeological studies, monitoring reports, and other related communications.

SECTION 9. Amendment to Chapter 17.73 List of Terms and Definitions

The following terms are added to the List of Terms (Section 17.73.010) and to Definitions (17.73.020):

- A. **Archaeological Resource.** An artifact, object, or site constituting material remains of past human life or activities.
- B. **California Register of Historical Resources (CRHR).** A State register that includes buildings, sites, structures, objects, and districts significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California that meet the criteria for designation in the CRHR as defined in Public Resources Code § 5020.1, as amended.
- C. **California Historical Resources Information System (CHRIS)** consists of the California Office of Historic Preservation (OHP), Information Centers (ICs), and the State Historical Resources Commission (SHRC). ~~The OHP administers and coordinates the CHRIS and presents proposed CHRIS policies to the SHRC, which approves these policies in public meetings. The CHRIS Inventory includes the Built Environment Resource Directory maintained by the OHP. Each IC acts as a repository for cultural resources reports and site records for specific counties.~~
- D. **Earth-Disturbing Activities.** This includes all activities that require disturbance of earth, dirt, ground or soils (native and non-native soils), including but not limited to grading, grubbing, trenching, post-hole digging, and excavation for foundations, fencing, utilities, and other infrastructure.
- E. **Information Centers (ICs).** The official repository for a given county for cultural resources reports and site records as part of CHRIS.
- ~~E-F.~~ **Native Soils.** The original (i.e., non-fill) sediments that have not been previously disturbed from past grading or excavation activities.
- ~~F-G.~~ **Phase I Report.** A study prepared by a City Qualified Archaeologist, that consists of an analysis of the property's potential for surface and buried Archaeological or Tribal Cultural Resources and identification of the location, boundaries, and extent of any cultural resources located on the property, and a review of all of the following for the subject parcel and surrounding area: (1) City-wide archaeological sensitivity map; (2) environmental factors including geology; geomorphology; ecotones; water sources; availability and types of potentially exploited or used resources; and potential for caves, rock shelters, and mountain peaks; and (3) aerial photographs and historic maps to determine presence of other potential factors affecting the presence or absence of either a prehistoric or historical site (e.g., parcel is in a river bottom). A Phase I Report requires a records search with the appropriate IC for Santa Barbara County to identify documented Archaeological and Tribal Cultural Resources ~~known resources~~ and previous studies in and near the project site and requires on-site evaluation of the property by the Archaeologist, including a ~~pedestrian (ground-surface)~~ survey on foot.
- ~~G-H.~~ **Extended Phase I Report.** A report that includes all of the components of a Phase 1 Report, along with an evaluation of limited shovel test pits or other subsurface surveys

as determined necessary by the Qualified Archaeologist for a complete analysis of the property to contain buried archaeological resources.

~~H.I.~~ **Preliminary Archaeological Assessment.** A site-specific assessment prepared by a Qualified Archaeologist to assess the of the project site's potential of the area of development to contain for Archaeological or Tribal Cultural Resources and will determine the necessity for a Phase I Report. The assessment includes a review of all of the following for subject parcel and surrounding area: (1) prior archaeological survey(s) and reports; (2) resources listed on or eligible for listing on the National Register of Historic Places and/or the CRHR; (3) known archaeological site(s) including distance to subject parcel, nature, and type; (4) City-wide archaeological sensitivity map; (5) environmental factors including geology; geomorphology; ecotones; water sources; availability and types of potentially exploited or used resources; and potential for caves, rock shelters, and mountain peaks; (6) known and potential historical resources including distance to subject parcel; nature; location relative to historical town core and historical transportation routes, including rail, road, and trails; potential for privies based on date of sewer line installation; and locations of structures and infrastructure assessed by inspection of historical map; and (7) aerial photographs and historic maps to determine presence of other potential factors affecting the presence or absence of either a prehistoric or historical site (e.g., parcel is in a river bottom).

~~J.~~ **Qualified Archaeologist.** A person who meets the minimum education and qualifications in archaeology, anthropology, or closely related field to qualify as a Principal Investigator for Archaeology, as outlined in the Code of Federal Regulations, 36 CFR Part 61, has at least five years of professional archaeology experience in Santa Barbara County, and is familiar with the local Chumash culture.

~~K.~~ **Qualified Archaeological Monitor.** A person who has a bachelor's degree in Anthropology, Archaeology, or related field; has at least one year of experience in conducting archaeological fieldwork in California and is experienced in the recognition of prehistoric and historic-age archaeological materials; has been trained to work around construction equipment; and who is activity supervised by a city-qualified Archaeologist.

~~H.L.~~ **Qualified Native American Monitor.** A person who has been designated or authorized by a Native American Tribe to monitor construction activities and to serve as an on-site representative of the Tribe; has been trained to work around construction equipment; and has been trained to recognize potential Tribal Cultural Resources.

~~J.M.~~ **Traditional Cultural Significance.** This refers to the value of a place or object for its aesthetic, historic, social, or spiritual value for past, present, or future generations. Traditional cultural significance is embodied in the place or object, its fabric, setting, use, association, and meaning and differs from scientific value.

~~K.N.~~ **Tribal Cultural Resource.** Pursuant to Public Resources Code § 21074(a), a resource that consists of (1) sites, features, places, cultural landscapes, sacred places and objects with

cultural value to a California Native American Tribe that are included in the California Register of Historical Resources (CRHR) or local register of historical resources or that are determined to be eligible for inclusion in the CRHR; and (2) resources determined by the lead agency, in its discretion, to be significant on the basis of criteria for listing in the CRHR after the lead agency takes into consideration the significance to the Tribe(s).

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ATTACHMENT 3

**SURVEY OF JURISDICTIONS ARCHAEOLOGICAL AND TRIBAL
CULTURAL PERMIT REQUIREMENTS**

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ATTACHMENT 3

SURVEY OF JURISDICTIONS ARCHAEOLOGICAL AND TRIBAL CULTURAL PERMIT REQUIREMENTS

JURISDICTION	TRIBAL CULTURAL REQUIREMENTS
Counties	
Humboldt County	CEQA process for discretionary projects; 2016 General Plan EIR discusses three categories review (discretionary, non-discretionary projects ¹ in mapped archaeological area (required a site inspection and mitigation measures) and ministerial projects in a non-mapped archaeological area (imposition of typical Tribal Cultural Conditions).
Monterey County	CEQA process for discretionary projects; Requires Preliminary Archaeological Assessments for some ministerial permits in mapped archaeological areas and within 250' of known archaeological/tribal cultural resources. In those area, can qualify for a waiver for: ongoing Agricultural operations; sites with a previous report and findings are adequate to determine no impact; previously disturbed area where new disturbance is equal to or less than previous disturbance; minimal soil disturbance for fence posts/footings, repair/maintenance of underground facilities etc.
Santa Barbara County	CEQA process for discretionary projects; (checking with County on ministerial but have not found anything to lead to conclude this is regulated)
Tuolumne County	CEQA process for discretionary projects; Per Chapter 14.10 of Municipal Code, Tuolumne County has criteria to determine if permit is ministerial or if it is discretionary based on location in a designated archaeological area and/or if the resource cannot be avoided.
Ventura County	CEQA process for discretionary projects; Potential review for ministerial project if the applicant asks for a Certificate of Appropriateness from the Cultural Heritage Board.
Cities	

¹ This is the category type discussed in the Draft General Plan EIR.

City of Carpinteria	CEQA process for discretionary projects; All projects in one area of town (documented Historic Village) require an Extended Phase 1 for any project (ministerial and discretionary) that involves ground disturbances.
City of Fontana	CEQA process for discretionary projects; verified that City does not impose tribal cultural conditions on all building permits.
City of Buellton	CEQA process for discretionary projects; Do not require any assessment for ministerial projects. Except is for housing project being processed under SB 35 and then require tribal consultation for those specific projects.
City of Malibu	All projects are required to undergo an Initial Evaluation for onsite cultural resources. Depending on the determination, then no further cultural resources review is required, or a Phase 1 evaluation is required. Discretionary projects are subject to CEQA process.
City of Ojai	Requires preparation of a Phase 1 report for all discretionary projects subject CEQA (NOE, ND/MND, EIR); Requires consultation with CHRIS ² for site that have that no previous Phase 1 reports and there is the possibility of resources. Ministerial permits within either 500' of a known resource or possibility of a known resource require preparation of a PAA ³ . No Report required for Discretionary projects Exempt from CEQA or Ministerial if Phase 1 Survey on File and No Resources Identified and No Recommendation for further Investigations or Monitoring. Emergency Projects are exempt from requirement
City of Port Hueneme	CEQA process for discretionary project; Does not require any assessment for ministerial projects
City of Santa Barbara	CEQA process for discretionary projects; Archaeological protections in Municipal Code (Chapter 22.12) that can be applied to ministerial permits and have in the past occasionally require notes on grading plans to report unanticipated archaeological resources if found. Do not very often require studies to be prepared as part of a ministerial permit. For discretionary project, requirements for a Letter Report (PAA), or Phase 1/Extended Phase 1 report are based on the ground disturbance and sensitivity of location. Requirements are also key into sensitivity of

² CHRIS: California Historical Resources Information System
³ PAA: Preliminary Archaeological Assessment

	location (estuaries, drainages etc.), timeframe frames (Spanish Colonial & Mexican, Mexican to American Transition, American etc.) and by distance to sensitivity zone (equal to or less than 500' and greater than 500').
City of Ventura	CEQA process for discretionary projects; Potential review if the applicant requests a Certificate of Appropriateness from the Cultural Heritage Board for a ministerial project. Review is handled by the County of Ventura.

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ATTACHMENT 4

Public Comments

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From: glassow@anth.ucsb.edu
To: [Lisa Prasse](#)
Subject: Archaeological and Tribal Resources Preliminary Regulations
Date: Tuesday, July 06, 2021 3:59:19 PM

Dear Ms. Prasse:

A colleague forwarded to me the City of Goleta's Archaeological and Tribal Resources Preliminary Regulations, and I have the following comments.

Regarding exemptions from further review, some historic and prehistoric sites are considerably less than 250 feet in size. Some are less than 50 feet in maximum dimension—e.g., the remains of an historically significant dwelling or a small prehistoric campsite. An exemption criterion based on distance to known cultural resources makes no sense.

A Preliminary Archeological Assessment and Phase 1 Report are treated as comparable. They generally are not. A PAA typically is made for all land development projects by a jurisdiction's planning staff (often in consultation with a qualified archaeologist or historian), and the PAA may or may not lead to recommending a Phase 1 project and report. PAAs are not restricted to proposed disturbance areas that have no exposed ground surface (e.g., paved or covered with a building). This distinction between a PAA and a Phase 1 project is spurious.

Regarding Section 8. Amendment of Section 17.50.060(A)(15), there is no indication that a list/map would be based on data obtained from the state Office of Historic Preservation's Central Coast Information Center, housed at the Santa Barbara Museum of Natural History. This Information Center houses all official archaeological and historic site records and reports for Santa Barbara County (and also San Luis Obispo County).

Sincerely,

Michael A. Glassow
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Santa Barbara, CA 93106-3210
805-962-3304

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