



Agenda Item B.1
PUBLIC HEARING ITEM
Meeting Date: June 28, 2021

TO: Planning Commission

FROM: Peter Imhof, Planning and Environmental Review Director

CONTACT: Lisa Prasse, Current Planning Manager

SUBJECT: Archaeological and Tribal Cultural Resources provisions of the Historic Preservation Ordinance; Case Number 2016-092 OA; City Wide

RECOMMENDATION

Commence review of the draft Archaeological and Tribal 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 Barbareño 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 and Tribal Cultural 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).

Planning Commission Review of Chapter 17.33

On December 14, 2020, and March 29, 2021, the Planning Commission reviewed materials related to Historic Resources and those properties that could be added to an eligibility list.

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 a working draft of the Archaeological and Tribal Cultural Resources provisions of the ordinance. This version is a preliminary draft, for which staff would like public and Commission input at this stage.

As stated in proposed Section 17.43.010, the purpose of Chapter 17.43 is to establish standards for development that could impact sensitive and protected Archaeological or Tribal Cultural Resources within the City, particularly those that are subsurface. Specifically, this Chapter is intended to:

- Preserve and protect Archaeological and Tribal Cultural Resources, including sites and areas of the natural landscape that have traditional cultural significance.
- Foster awareness, recognition, and stewardship of the City's Archaeological and Tribal Cultural Resources; and
- Protect, restore, and enhance significant archaeological sites, such as native villages, seasonal campsites, burial sites, stone tool quarry sites, hunting sites, traditional trails, and sites with rock carvings or paintings.

Permit Requirements and Review Process (Sections 17.43.020 and 17.43.040)

Given the extensive Archaeological and Tribal Cultural Resources in Goleta, it is currently proposed that both ministerial or discretionary level projects undergo some level of review to ensure that Archaeological and Tribal Cultural Resources are not impacted when earth-disturbing activities are proposed. In order for the regulations to not be overly onerous and in recognition that some areas of Goleta have already been the subject of archaeological studies, Section 17.43.020(A)(1) outlines the type of activities that would be exempt from further review. These activities include:

- minor landscaping activities that require less than two cubic feet of soil disturbance.
- project sites with no known resources within 250 feet that were the subject of a previous Phase 1 Archaeological Report or Preliminary Archaeological Assessment concluding that there were no archaeological resources present.
- proposed disturbance area would be within previously disturbed soils and would not intrude into native soils.

If an earth-disturbing activity for a ministerial project/activity met the criteria to be exempt, then no further review/requirements would apply. However, if a ministerial project/activity did not meet the criteria to be exempt or the project was deemed to be a discretionary project, then the project/activity would be subject to the processing requirements of Section 17.43.40 (Permit Required).

A non-exempt project would be required to have prepared either a Preliminary Archaeological Assessment or a Phase I Report. If such a report revealed that the project site 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 has little or no potential to contain buried Archaeological or Tribal Cultural Resources, then no further review would be necessary.

If the Preliminary Archaeological Assessment or the Phase I Report revealed that the project site contains or potentially contains Archaeological or Tribal Cultural Resources, then the project would require approval of a Minor Conditional Use Permit to ensure that appropriate measures are taken to minimize impacts on the identified resources.

Reporting Requirements (Section 17.43.030)

New development including earth-disturbing activity that is subject to the requirements of Section 17.43.020 shall be subject to either the preparation of a Preliminary Archaeological Assessment ("PAA") or a Phase 1 Report which are defined in the attached preliminary draft ordinance. In general a PAA is a site-specific desktop assessment by a Qualified Archaeologist for a project site that is paved, developed, or landscaped to determine if there is a potential for buried Archaeological or Tribal Cultural Resources only. A Phase 1 Report is a study by a Qualified Archaeologist for a project site that is not paved, developed, or landscaped to determine if there is a potential for surface and buried Archaeological or Tribal Cultural Resources, and includes a desktop study and field survey.

Native American Consultation (17.43.050)

As outlined in Section 17.43.050, 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 Public Resources Code § 21080.3. 1. In addition, all properties for which a PAA or Phase I Report is prepared, the City will make these studies available to the Native American Tribal Council groups upon request.

Known Archaeological and Tribal Cultural Resources (17.50.060(A)(15))

The city will amend the duties of the Planning and Environmental Review Director to include the development of a list of sites with known archaeological, cultural, or pre-historic resource in consultation with the Tribal Chairs of the Barbareño, Santa Ynez and Ventureño Bands of Chumash Indians. This list shall be kept confidential and is not a public record under the Public Records Act. (Government Code Sections 6254(r) and 6254.10. This list will be used by the city to advise permit applicants whether the site of a proposed project is within 250 feet of a parcel that contains all or a portion of a known archaeological, cultural, or pre-historic resource.

Planning Commission Considerations

As the Commission reviews 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 distance of 250 feet from a known archaeological resource an appropriate distance to require a PAA/ Phase 1 or should a different distance be used?
4. Is the list of typical ministerial activities listed in the applicability section (17.43.020) that would be exempt from the provisions too broad or not broad enough including the size of the landscape exemption (2 cubic feet)?

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 the changes for review and recommendation.

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

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 June 17, 2021.
- On June 17, 2021, a) mailed notice was sent to the property owners whose property may be subject to the provisions of this Ordinance; b) Gov Delivery email notice was sent to approximately 3,890 emails addressed to those on the Planning and Environmental Review, Planning Commission, and Historic Preservation lists in both English and Spanish; and c) the information was shared on various social media platforms (Facebook, Twitter, etc.).

Legal Review by:



Winnie Cai
Assistant City Attorney

Approved by:



Peter Imhof
Planning and Environmental Review
Director

ATTACHMENT:

1. Draft Archaeological and Tribal Cultural Resource Provisions (Chapter 17.43) of the Historic Resources Ordinance

This page intentionally left blank.

Attachment 1

Chapter 17.43 Archaeological and Tribal Cultural Resources (Preliminary Draft)

This page intentionally left blank.

Chapter 17.43 Archaeological and Tribal Cultural Resources (Preliminary 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
17.43.040	Review Process
17.43.050	Native American Consultation

17.43.010 Purpose and Intent

The purpose of this Chapter is to establish standards for new development that could impact sensitive and protected Archaeological or Tribal Cultural Resources within the City and to outline the procedures and criteria for the identification and management of these resources. Specifically, this Chapter is intended to:

- A. Preserve and protect Archaeological and Tribal Cultural Resources, including sites and areas of the natural landscape that have traditional cultural significance.
- B. Foster awareness, recognition, and stewardship of the City’s Archaeological and Tribal Cultural Resources; and
- 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.

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 or 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.

17.43.030 Submittal Requirements

New development including earth disturbing activity that is subject to the requirements of this Chapter as identified in 17.43.020 shall be subject to the following reporting requirements.

- A. A Preliminary Archaeological Assessment or a Phase 1 Report shall be required for any earth-disturbing activities that do not meet the exceptions listed above in 17.43.020, as follows:
 - 1) A Preliminary Archaeological Assessment shall be required when the proposed disturbance area is located within a paved, developed, or landscaped area where there is no exposed ground surface remaining.
 - 2) A Phase 1 Report shall be required when the proposed disturbance area is located within an area that is not paved, developed, or landscaped, and where there is exposed ground surface. This applies even if the ground surface has sustained previous disturbances from grading, vegetation clearance, or other modifications.

17.43.040 Permit Requirements

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.

17.43.050 Native American Consultation

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

- A. For all projects requiring a CUP or other discretionary action 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 Public Resources Code § 21080.3.1.
- B. For all properties for which a Preliminary Archaeological Assessment or a Phase I Report is prepared, the City will make the studies available to Native American Tribal Councils upon request.

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

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

- 15. Develop a list/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/map shall be subject to the following:
 - a. Used by the City to advise permit Applicants whether the site of a proposed project is within 250 feet of a parcel that contains all or a portion of a known Archaeological or Tribal Cultural Resource.
 - b. Developed in consultation with the Tribal Chair of the Barbareño, Santa Ynez, and Ventureño Bands of Chumash Indians, and a Qualified Archaeologist.
 - c. 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), 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 ground 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. **Phase I Report.** A study prepared by a 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 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.
- G. **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. **Preliminary Archaeological Assessment.** A site-specific assessment prepared by a Qualified Archaeologist of the project site's potential 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).

- I. **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.
- J. **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. **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).