

Guidelines For Determining the Significance of and Impacts to Cultural Resources- Archaeological, Historic and Tribal Cultural Resources

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Board of Supervisors
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Purpose

- Revise Chapter 8-
 - *Environmental Thresholds and Guidelines Manual*
- Current-
 - *Cultural Resources Guidelines, Archaeological, Historic and Ethnic Elements*
- Proposed-
 - *Guidelines for Determining the Significance of and Impacts to Cultural Resources- Archaeological, Historic and Tribal Cultural Resources*





COUNTY OF SANTA BARBARA

Planning and Development

Environmental Thresholds and Guidelines Manual

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CEQA Thresholds of Significance

- CEQA Guidelines define a threshold of significance as:

“... an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which normally will be determined to be less than significant.” (§15064.7(a))



Local Thresholds of Significance

- CEQA Guidelines Section 15064.7 encourages local agencies to adopt and publish thresholds of significance.
- CEQA provides lead agencies with broad discretion with regard to adopting thresholds.
- Thresholds must be based on substantial evidence.



Initial Study Checklist: Cultural Resource Thresholds

4.5 CULTURAL RESOURCES

| Will the proposal result in: | Poten. Signif. Class I | Less than Signif. with Mitigation Class II | Less Than Signif. Class III | No Impact Class III | Reviewed Under Previous Document |
|---|------------------------|--|-----------------------------|---------------------|----------------------------------|
| a. Cause a substantial adverse change in the significance of any object, building, structure, area, place, record, or manuscript that qualifies as a historical resource as defined in CEQA Section 15064.5? | | | | | |
| b. Cause a substantial adverse change in the significance of a prehistoric or historic archaeological resource pursuant to CEQA Section 15064.5? | | | | | |
| c. Disturb any human remains, including those located outside of formal cemeteries? | | | | | |
| d. Cause a substantial adverse change in the significance of a tribal cultural resource, defined in the Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: <ol style="list-style-type: none"> 1) listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020(k), or 2) a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant according to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of the Public Resources Code Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe. | | | | | |



Process to Revise Thresholds

- The Environmental Thresholds and Guidelines Manual shall be periodically amended by the Board of Supervisors
- New information** or changed environmental circumstances
- Planning Commission will hold noticed public hearings in north and south county to consider:
 - (1) **existing thresholds and the need for refinement or revision,**
 - (2) specific proposed changes to thresholds and guidelines, and/or
 - (3) new thresholds and guidelines for additional topics.



Process to Revise Thresholds

- Outreach to Stakeholders:
 - Native Americans
 - Professional Archaeologists
 - Historians
 - Historical Architects
 - Planners
 - The Public
- South County Planning Commission- 12-20-2017
- North County Planning Commission- 1-10-2018
- Board of Supervisors- 2-27-2018



Thresholds Have Three Parts and an Appendix

1. Identify Those Characteristics that Qualify the Resource as a Significant Cultural Resource
2. How to Evaluate the Severity of Potential Impacts to Significant Cultural Resources
3. Discussion of Mitigation that may Avoid or Lessen a Potentially Substantial Adverse Change

Appendix- Fieldwork and Reporting Guidelines for Cultural Resources



Categories of Cultural Resources

- “Historical Resources” Include:
 - Archaeological Resources
 - Tribal Cultural Resources
 - Historic Resources



Historical Resources

CEQA Guidelines Section 15064.5 (a)

- (a) For purposes of this section, the term “**historical resources**” shall include the following:
- (1) A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the **California Register of Historical Resources** (Pub. Res. Code SS5024.1, Title 14 CCR. Section 4850 et seq.).
 - (2) A resource 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 an historical resource survey meeting the requirements of Section 5024.1(g) of the Public Resources Code, shall be presumed to be historically of culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.



Historical Resources

CEQA Guidelines Section 15064.5 (a)

(3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource **meets the criteria for listing on the California Register of Historical Resources** (Pub. Res. Code SS5024.1, Title 14, Section 4852) including the following:



Historical Resources

CEQA Guidelines Section 15064.5 (a)

(A) **Is associated with events** that have made a significant contribution to the broad patterns of California's history and cultural heritage;

(B) **Is associated with the lives of persons** important in our past;

(C) **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 values; or

(D) Has yielded, or may be likely to yield, **information important in prehistory or history.**



Historical Resources

CEQA Guidelines Section 15064.5 (a)

(4) The fact that a resource is not listed in, or determined eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to Section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in Section 5024.1(g) of the Public Resource Code) does not preclude **a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code Section 5020.1(j) or 5024.1.**



Types of Historical Resources

- Archaeological Sites (CEQA Guidelines Section 15064.5 (c))
- Unique and Non-Unique Archaeological Sites (CEQA Statute Section 21083.2 (g))
- Historic Resources (i.e., built environment)
 - Local Register of Historical Resources (Public Resources Code Section 5020.1(k))
 - Historic Landmarks Advisory Commission
 - Santa Barbara County Landmarks
 - Places of Historic Merit
 - Requirements for Historical Resource Surveys (Public Resources Code Section 5024.1(g))
 - Historic Districts and Landscapes



Significance Determination and Impact Assessment Process for Archaeological Sites

- Phase 1- Inventory
 - Records Search
 - Sacred Lands Check –NAHC
 - Pedestrian Survey

- Phase 2- Significance Evaluation and Impact Assessment
 - If Archaeological Resource is Present
 - Site Testing
 - Significance Evaluation as a “Historical Resource”
 - If Significant, Direct and Indirect Impact Assessment
 - Mitigation Proposed

- Phase 3- Mitigation (e.g., Data Recovery, Curation)



Significance Determination and Impact Assessment Process for Historic Sites

- Phase 1- Inventory and Significance Evaluation
 - Records Search
 - Archival Research
 - Property Inspection and Recordation
 - Significance Evaluation
 - Integrity (location, design, setting, materials, workmanship, feeling, and association)
 - “Historical Resource” Criteria
- Phase 2- Impact Assessment and Mitigation
 - If Significant “Historic Resource”
 - Direct and Indirect Impact Assessment
 - Mitigation Proposed
 - e.g., Rehabilitation, Reconstruction, Adaptive Reuse
 - Secretary of Interior’s Standards
- Phase 3- Mitigation (e.g., Preservation in Place, HABS/HAER)



Tribal Cultural Resources- AB 52 (Gato) (CEQA Statute Section 21074)

(a) “Tribal cultural resources” are either of the following:

(1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:

(A) Included or determined to be eligible for inclusion in the California Register of Historical Resources.

(B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.

(2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1.

In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.



Tribal Cultural Resources- AB 52 (Gato) (CEQA Statute Section 21074)

(b) A **cultural landscape** that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

(c) A historical resource described in Section 21084.1, a **unique archaeological resource** as defined in subdivision (g) of Section 21083.2, or a “**nonunique archaeological resource**” as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).



Tribal Cultural Resources- AB 52 (Gato) (CEQA Statute Section 21074)

- **Tribal Consultation** (CEQA Statute Section 21080.3.1)
 - Applies to all ND's, MND's, and EIR's
 - Tribe Must Request Consultation
 - Offer Consultation Within 14 days
 - Tribe Must Respond Within 30 Days
 - Tribes Considered Experts on TCR's
 - Identification of
 - Appropriate Mitigation for
 - Information Provided by Tribes is Confidential
 - Consultation ends Once Agreement is Reached or There is no Agreement



DETERMINING THE SEVERITY OF IMPACTS TO CULTURAL RESOURCES

•Typical Adverse Effects Examples:

- Non-scientific Surface Collection or Subsurface Excavation
- Destruction through Project Development
- Indirect impacts Resulting From Adjacent Development
- Introduction of Effects that are Out of Character with or Alter Setting
- Vandalism (e.g., Graffiti)
- Modifications (Remodeling, Alteration, Addition, Demolition)



DETERMINING THE SEVERITY OF IMPACTS TO CULTURAL RESOURCES

•Substantial Adverse Change to a Historical Resource (CEQA Guidelines Section 15064.5(b)):

(b) A project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.

(1) Substantial adverse change in the significance of an historical resource means **physical demolition, destruction, relocation, or alteration of the resource** or its immediate surroundings such that the significance of an historical resource would be materially impaired.

(2) The significance of an historical resource is materially impaired when a project:

(A) **Demolishes or materially alters** in an adverse manner those physical **characteristics of an historical resource that convey its historical significance** and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources; or



DETERMINING THE SEVERITY OF IMPACTS TO CULTURAL RESOURCES

- Substantial Adverse Change to a Historical Resource (CEQA Guidelines Section 15064.5(b)):

(2) The significance of an historical resource is materially impaired when a project:

(B) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to Section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of Section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or

(C) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.



MITIGATION AND DESIGN CONSIDERATIONS

CEQA Guidelines 15064.5(b), 15126.4(b)

CEQA Statute 21084.3

- **A Few Examples:**

- **Archaeological Sites-**

- Avoidance
 - Capping
 - Data Recovery
 - Curation of Collections
 - Temporary Fencing

- **Tribal Cultural Resources-**

- Protecting Traditional Use
 - Protecting Confidentiality
 - Permanent Conservation Easements

- **Historic Built Environment-**

- Preservation in Place
 - Landmarking
 - HABS/HAER Documentation
 - Secretary of Interior's Standards



Native American Human Remains and Accidental Discovery

- **Known Presence of Native American Human Remains** (CEQA Guidelines Section 15064.5(d))-

- Work with Appropriate Native Americans as Identified by the Native American Heritage Commission (NAHC) to Determine Appropriate Treatment

- **Accidental Discovery of Human Remains** (CEQA Guidelines Section 15064.5(e))-

- Contact Coroner
- If Coroner Determines Remains to be Native American
- Contact NAHC who identifies Most Likely Descendant (MLD)

- **Accidental Discovery of Non-Human Remain Archaeological Material** (CEQA Guidelines Section 15064.5(f))-

- Lead Agency Should Make Provisions for Historical Resources Discovered During Construction
- Immediate Evaluation by a Qualified Archaeologist
- Avoid or Appropriately Mitigate



FIELDWORK AND REPORTING GUIDELINES FOR CULTURAL RESOURCES

- New Appendix B to Environmental Thresholds and Guidelines Manual
- Replaces
 - Regulations Governing Cultural Resource Projects Undertaken in Conformance with Federal and State Environmental Protection Acts.*
 - Never formally approved by BOS
- Purpose-
 - Make clear what information is required to be presented in Cultural Resource Management Reports
 - Provide Guidelines as to what constitutes adequate fieldwork to assess resource significance, impact analysis, and adequate mitigation
 - Provide a consistent format for the presentation of analytical results



Recommendations

- a) Make the required findings for approval of the proposed amendment, including CEQA findings (Attachment 1);
- b) Determine the project is exempt from CEQA pursuant to CEQA Guideline Sections 15308 and 15378(b) of CEQA, included as Attachment C; and
- c) Adopt a Resolution recommending that the Board of Supervisors adopt Case No. 17ORD-00000-00017, amending the County of Santa Barbara's *Environmental Thresholds and Guidelines Manual*, by revising thresholds of significance to guide the County's environmental analysis of cultural resources of a project subject to the CEQA (Attachment B), substituting as Exhibit A to that Resolution the following revised documents, distributed to the Board on February 20, 2018: "Guidelines for Determining the Significance of and Impacts to Cultural Resources – Archaeological, Historic, and Tribal Cultural Resources" and "Fieldwork and Reporting Guidelines for Cultural Resources".



Many Thanks!
Are there any questions?

County of Santa Barbara
Planning & Development Department
Dr. Glenn S. Russell, Director



Tribal Consultation (CEQA Statute Section 21080.3.2.)

(a) As a part of the consultation pursuant to Section 21080.3.1, the parties may propose mitigation measures, including, but not limited to, those recommended in Section 21084.3, capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource. If the California Native American tribe requests consultation regarding alternatives to the project, recommended mitigation measures, or significant effects, the consultation shall include those topics. The consultation may include discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project's impacts on the tribal cultural resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the California Native American tribe may recommend to the lead agency.

(b) The consultation shall be considered concluded when either of the following occurs:

- (1) The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource.
- (2) A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.

