
4. ENVIRONMENTAL IMPACT ANALYSIS

3. CULTURAL RESOURCES

1. INTRODUCTION

The following section addresses the Proposed Project's potential to result in significant impacts upon cultural resources, including archaeological, paleontological and historic resources. The historic impact assessment findings presented in this section are based on a review of information presented in an archaeological records search conducted by the South Central Coastal Information Center in May 2013, and the following archaeological reports associated with an adjacent vacant parcel:

- Chester King, Malibu City Archeologist, Topanga Anthropological Consultants, Archaeological Reconnaissance at 3700 La Paz Lane, Malibu CA, June 19, 1995, File No. 94-011;
- E. Gary Stickel, Ph.D., Consulting Archaeologist, Environmental Research Archaeologists: A Scientific Consortium, An Archaeological Survey for the Civic Center Project, City of Malibu, CA, February 9, 1999.

2. ENVIRONMENTAL SETTING

a. Regulatory Framework

Historic resources fall within the jurisdiction of several levels of government. Federal laws provide the framework for the identification, and in certain instances, protection of historic resources. Additionally, States and local jurisdictions play active roles in the identification, documentation, and protection of such resources within their communities. The National Historic Preservation Act (NHPA) of 1966, as amended, and the California Register of Historical Resources (California Register) are the primary federal and State laws and regulations governing the evaluation and significance of historic resources of national, State, regional, and local importance. Descriptions of these relevant laws and regulations are presented below.

(1) Federal Regulations

(a) National Register of Historic Places

The National Register of Historic Places (National Register) was established by the NHPA, as “an authoritative guide to be used by Federal, State, and local governments, private groups, and citizens to identify the Nation’s cultural resources and to indicate what properties should be considered for protection from destruction or impairment.”¹ The National Register recognizes properties that are significant at the national, State, and/or local levels. To be eligible for listing in the National Register, a resource must be significant in American history, architecture, archaeology, engineering, or culture.

¹ 36 Code of Federal Regulations (CFR) Section 60.2.

(b) Archaeological Resources

The federal Archaeological Resources Protection Act of 1979 (Public Law 96-95) protects archaeological resources and sites on federal and Native American lands, including requirements for issuance of permits by federal land managers to excavate or remove archaeological resources. The Native American Graves and Repatriation Act (1990) and the Native American Heritage Act (1984 and 1992) provide guidelines for protection of Native American remains and artifacts.

(c) Paleontological Resources

In 2009, the Paleontological Resources Preservation Act (PRPA) became law when President Barack Obama signed the Omnibus Public Land Management Act (OPLMA) of 2009, Public Law 111-011.² The PRPA requires the Secretaries of the Interior and Agriculture to manage and protect paleontological resources on Federal land using scientific principles and expertise. The PRPA includes specific provisions addressing management of these resources by Federal agencies. It provides authority for the protection of paleontological resources on Federal lands including criminal and civil penalties for fossil theft and vandalism. The PRPA only applies to Federal lands and does not affect private land or land that is owned by local municipalities.

(2) State Regulations**(a) California Coastal Act**

The California Coastal Act of 1976 has a basic goal of protecting and maintaining the overall quality of the coastal zone environment and its natural and artificial resources (Public Resources Code Section 30001.5). Sections 30240 to 30244 (Article 5) address land resources. Specifically, Section 30244 states the following:

“Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.” (Section 30244).

Within the Coastal Zone, the Coastal Commission is responsible for the protection of California’s man-made resources and reviews and adopts mitigation measures for cultural resources. On December 16, 1982, the Commission adopted guidelines for review of archaeological projects within the Coastal Zone. The guidelines include: (1) guidelines related to mitigating impacts of coastal development, and (2) guidelines for conducting archaeological studies. According to the guidelines for impact mitigation, all resources that may be affected are to be located through surface survey and if necessary subsurface testing. To define site boundaries and composition and to evaluate site significance, further fieldwork, including excavation, is to be conducted (Section 1.3). Subsequently the Project’s potential impacts are assessed, and a mitigation plan is prepared.

² P.L. 111-011, Title VI, Subtitle D on Paleontological Resources Preservation (known by its popular name, the PRPA) (123 Stat. 1172; 16 U.S.C. 470aaa).

(b) Native American Heritage Commission

The Native American Heritage Commission was established in 1976 to protect the heritage of California Native Americans and make recommendations with regard to heritage sites (Section 5097.9 of Division 5 of the Public Resources Code). The scope of the Commission's legal authority includes assisting State agencies in protecting Native American sacred places and making recommendations on Native American heritage in accordance with environmental law and policy. In 1982, Senate Bill 297 was passed into law addressing the disposition of Native American human burial and skeletal remains. SB 297 amended various sections of the California Government Code, Health and Safety Code, and Public Resources Code. The amended regulations provide for the protection of burials from disturbance, vandalism, and inadvertent destruction. They provide for punishment of vandals, and establish procedures for encouraging private property owners to comply with the recommended treatment of burials. The statutes empower the Native American Heritage Commission to catalogue existing burials and to resolve disputes related to the treatment and disposition of Native American Burials and associated items. Finally, the codes as amended stipulate specific procedures to be implemented if a Native American burial is discovered during project construction.

(c) California Office of Historic Preservation

The Office of Historic Preservation (OHP), as an office of the California Department of Parks and Recreation, implements the policies of the NHPA on a statewide level. The OHP also carries out the duties as set forth in the Public Resources Code (PRC) and maintains the California Historical Resources Inventory and the California Register. The State Historic Preservation Officer (SHPO) is an appointed official who implements historic preservation programs within the State's jurisdictions. In addition, CEQA requires projects to identify any substantial adverse environmental impacts, which may affect the significance of identified historical resources. (PRC Section 21084.1)

The California Register of Historical Resources was created by Assembly Bill (AB) 2881, which was signed into law on September 27, 1992. The California Register is "an authoritative listing and guide to be used by State and local agencies, private groups, and citizens in identifying the existing historical resources of the State and to indicate which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change."³ The criteria for eligibility for the California Register are based upon National Register Criteria for Evaluation. Certain resources are determined by the statute to be automatically included in the California Register, including California properties formally determined eligible for, or listed in, the National Register. Furthermore, the California Register consists of resources that are listed automatically and those that must be nominated through an application and public hearing process.

³ *California Public Resources Code, Section 5024.1(a).*

(d) Archaeological Resources

As part of the determination made pursuant to Section 21080.1, the lead agency shall determine whether the project may have a significant effect on archaeological resources (PRC Section 21083.2). PRC Section 21083.2(b) provides the following guidance on how to mitigate or avoid the significant effects that a project may have on unique archeological resources. PRC Section 21083.2(b) states the following:

If it can be demonstrated that a project will cause damage to a unique archaeological resource, the lead agency may require reasonable efforts to be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. Examples of that treatment, in no order of preference, may include, but are not limited to, any of the following:

- (1) Planning construction to avoid archaeological sites.
- (2) Deeding archaeological sites into permanent conservation easements.
- (3) Capping or covering archaeological sites with a layer of soil before building on the sites.
- (4) Planning parks, greenspace, or other open space to incorporate archaeological sites.

(3) Local Codes and Regulations**(a) City of Malibu Zoning Ordinance**

Section 17.54 of the Malibu Municipal Code (M.M.C.) provides for procedures and policies for the purpose of avoiding damage or destruction of important cultural resources within the City.

Section 17.54.030 (Applicability) states: “A cultural resource review pursuant to this chapter shall be required for all projects prior to the issuance of a planning approval, development permit, geological/geotechnical exploratory excavation permit, sewer permit, building permit, grading permit, or prior to the commencement of government-initiated or funded works except those projects necessary for emergency purposes.”

Section 17.54.060 (Archaeological Discoveries) states: “Any person who discovers important cultural resources during the course of construction for a project shall notify the Planning Director of the discovery. Once important cultural resources are discovered, no further excavation shall be permitted without approval of the Planning Director.”

(4) Archeological Records Search

An archaeological records search was conducted at the South Central Coastal Information Center (SCCIC), California State University, Fullerton, Department of Anthropology on May 24, 2013 (SCCIC# 13089.9768). The search includes a review of all recorded archaeological sites within a ½ -mile radius of the Project Site as well as a review of cultural resource reports on file. In addition, the California Points of Historical Interest (SPHI), the California Historical Landmarks (SHL), the California Register of Historical Resources (CAL REG), the National Register of Historic Places (NRHP), and the California State Historic Resources Inventory (HRI) listings were reviewed for the above referenced Project Site.

Five archaeological sites (19-000264, 19-000404, 19-001417, 19-001991, and 19-002936) have been identified on SCCIC's maps within a ½ -mile radius of the Project Site. No sites are located within the Project Site. One site is listed on the Archaeological Determination of Eligibility (DOE) list. This does not preclude the potential for archaeological sites to be identified during Project activities. No isolates have been identified within a ½ -mile radius of the Project Site. No isolates are located within the Project Site.

Two above-ground historic resources (19-177472 and 19-189451) have been identified on maps within a ½ -mile radius of the Project Site. No above-ground historic resources are located within the Project Site.

The California Historic Resources Inventory (HRI) lists one property that has been evaluated for historical significance within a ½ -mile radius of the Project Site. There are no additional resources that are listed in the Historic Properties Data file and are located either within the Project Site or within the search radius.

The California Point of Historical Interest (SPHI) of the Office of Historic Preservation, Department of Parks and Recreation, lists no properties within a ½-mile radius of the Project Site. The California Historical Landmarks (SHL) of the Office of Historic Preservation, Department of Parks and Recreation, lists no properties within a ½ -mile radius of the Project Site.

The California Register of Historical Resources (CAL REG) lists two properties within a ½ -mile radius of the Project Site. These are properties determined to have a National Register of Historic Places Status of 1 or 2, a California Historical Landmark numbering 770 and higher, or a Point of Historical Interest listed after 1/1/1998.

The National Register of Historic Places (NRHP) lists two properties within a ½ mile radius of the Project Site: Malibu 19-000264 Humaliwo (address restricted) and Malibu 19-189451 Stevens House, located at 23524 Malibu Colony Rd (listed 10/09/09).

Eighty cultural resource studies have been conducted within a ½ -mile radius of the Project Site. Of these, one is located within the Project Site. There are fourteen additional investigations located on the Malibu Beach, CA 7.5-minute USGS Quadrangle that are potentially within a ½ -mile radius of the Project Site. The reports are not mapped due to insufficient locational information. The Project Site was last surveyed in 1996 and no cultural resources were found on the surface at that time. Therefore, based on the results of the records search and the previous survey, the SCCIC commented that no further archaeological work is recommended prior to the approval of Project plans.

3. ENVIRONMENTAL IMPACTS

a. Thresholds of Significance

The City of Malibu General Plan EIR thresholds for cultural resources states that a significant impact would result when the following occurs:

- The damage to, or destruction of, important cultural resources within the City, including prehistoric and ethnohistoric Native American archaeological sites and historic archaeological sites, or
- Significant adverse physical or aesthetic impacts on a prehistoric or historic building or structure.

The significance of a project should also be evaluated in accordance with the CEQA Guidelines. CEQA Appendix G provides the following criteria for determining significance. A Proposed Project is considered to have significant impacts if it would:

- Cause a substantial adverse change in the significance of a historical resource defined in Section 15064.5, or
- Directly or indirectly destroy a unique paleontological resource or site or unique feature, or
- Disturb any human remains, including those interred outside of formal cemeteries.

CEQA Section 15064.5, “Determining the Significance of Impacts to Archaeological and Historical Resources,” specifically states that a project would have a significant impact if it would substantially damage or destroy a resource that:

- Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage, or
- Is associated with the lives of persons important to our past, or
- 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
- Has yielded, or may be likely to yield, information important in prehistory or history.

b. Project Impacts

The Proposed Project includes the proposed demolition of the existing former Sheriff’s Station building, and the construction of a new 2-story above-grade, approximately 25,310 square foot educational facility including an approximately 5,640 square foot Community Sheriff’s Substation and Emergency Operations and Planning Center on the ground floor. Grading for the Proposed Project is estimated to include 23,000 cubic yards of soil, including 9,400 cy of cut and 13,600 cy of fill. The grading plan requires excavation of the foundation and basement level of the existing Sheriff’s Station that is proposed for demolition.

As concluded in the findings above, no known archaeological or cultural resources are known to occur within or beneath the limits of the Project Site. Thus, no adverse impacts will occur to archaeological or cultural resources. Nevertheless, the potential still exists to uncover unknown archaeological remains during excavation and/or surface grading activities. Such unforeseen impacts can be avoided by implementing preventative mitigation measures during the construction phase (see Mitigation Measures below). Based on the available evidence, construction and operation associated with the Proposed Project would not result in any adverse impacts upon cultural resources on the Project Site. Impacts to cultural resources would therefore be considered less than significant.

4. CUMULATIVE IMPACTS

A “cumulative impact” refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental effects.⁴ Pursuant to CEQA Guidelines Section 15130(b)(1)(A)(B), an adequate discussion of a project’s significant cumulative impact, in combination with other closely related projects, can be based on either: (1) a list of past, present, and probable future producing related impacts; or (2) a summary of projections contained in an adopted local, regional, or statewide plan, or a related planning document that describes conditions contributing to the cumulative effect. The lead agency may also blend the “list” and “plan” approaches to analyze the severity of impacts and their likelihood of occurrence. For purposes of assessing the Project’s cumulative impact with respect to cultural resources, the cumulative analysis is appropriately based on a blended list and plan-based approach to determine the Project’s contributing effect on potential cumulative impacts on cultural resources.

Based on a review of the Related Projects list in Section 3.0 Environmental Setting, three related projects are located sufficiently close to the Project to yield similar findings should any unanticipated cultural resources be uncovered during the construction period. These properties include: (1) the La Paz Shopping Center located to the east of the Civic Center complex at 23465 Civic Center Way, (2) Whole Foods in the Park located further to the east at 23401 Civic Center Way, and (3) Malibu Sycamore Village, located immediately to the west of the Project Site at 23575 Civic Center Way. Although unlikely based on the records search information provided by the SCCIC, construction activities within the adjacent properties could result in the accidental discovery of archaeological or cultural resources. Similar to the Proposed Project, no specific archeological resources are known to exist in the immediate vicinity, so the potential for impacts to occur is low. Nevertheless, each project would be subject to the cultural review standards of the City of Malibu and will be evaluated on a case-by-case basis. Furthermore, similar to the Proposed Project, each related project would likely be subject to the same precautionary mitigation measures as identified for the Proposed Project. Therefore, the Proposed Project’s cumulative impacts upon cultural resources would be considered less than significant.

⁴ *CEQA Guidelines Section 15355.*

5. MITIGATION MEASURES

The following precautionary mitigation measures are recommended in order to ensure that the Proposed Project would not result in any significant impacts to cultural resources. These measures are consistent with the recommendations provided by the Native American Heritage Commission in response to the NOP for the Draft EIR:

- CR-1. In the event that archaeological resources are encountered during the course of grading or construction, all development must temporarily cease in the area of discovery until the resources are properly assessed and subsequent recommendations are determined by a qualified consultant.

- CR-2. In the event that human remains are discovered, there shall be no disposition of such human remains, other than in accordance with the procedures and requirements set forth in California Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.98. These code provisions require notification of the County Coroner and the Native American Heritage Commission, who in turn must notify those persons believed to be most likely descended from the deceased Native American for appropriate disposition of the remains. Excavation or disturbance may continue in other areas of the Project Site that are not reasonably suspected to overlie adjacent remains or cultural resources. If evidence of prehistoric artifacts is discovered construction activities in the affected areas shall not proceed until written authorization is granted by the City of Malibu Planning Director.

6. LEVEL OF SIGNIFICANCE AFTER MITIGATION

Implementation of the mitigation measures presented above would ensure impact to archaeological and cultural resources are mitigated to less than significant levels.