

## VI. ARCHAEOLOGY

### A. INTRODUCTION

This chapter describes the methods to insure protection of archaeological resources within the City limits. The City may contain additional archaeological resources in areas where development has not yet occurred or in already developed area in the City. Most resources are not readily seen until grading and construction occurs. Many of the City's known sites have been discovered as a result of construction.

### B. GOVERNMENTAL POLICIES

There are several state policies regarding the preservation of, or interference with Native American Heritage. Except for the California Environmental Quality Act and the Coastal Act, none of the state policies refer to privately owned land. The policies are briefly described as follows:

#### 1. The California Coastal Act of 1976.

The California Coastal Plan of 1976 recognized the need to provide protection for archaeological resources, noting that "archaeological sites resulting from ... thousands of years of human settlement along the coast are among the most fragile nonrenewable resources in the coastal zone" and that knowledge of prehistoric cultures "can be gained only from the detailed study of archaeological remains, the only source for more than 95 percent of California's cultural history."

This common concern for the protection of archaeological resources was reflected in the California Coastal Act of 1976 through Public Resources Code, Section 30244 which provides that, "Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required."

#### 2. The California Environmental Quality Act (CEQA) of 1970

The California Environmental Quality Act (CEQA) requires environmental effects of significant projects and undertakings be avoided or mitigated. (Public Resources Code, Sections 21000, et seq.). This statute currently establishes one of the more important mechanisms by which many Native American heritage resources on both public and private land are identified and protected in California.

The mitigation requirements of CEQA apply only when it is determined that a proposed project may have a significant effect upon the environment. The criteria used in determining a "significant effect" includes the elimination of "important examples of the major periods of

California history or prehistory" (State EIR Guidelines, California Administrative Code, Title 1c, Division 6, Chapter 3). However, the guidelines do not include native American heritage, Indian cemeteries and cultural remains as specific topics of environmental concern. The guidelines additionally fail to list an agency of special expertise in that subject which might be consulted. To resolve these problems, the American Heritage Commission has begun working with the Resources Agency and the Office of Planning and Research in revising the EIR guidelines.

### 3. Public Resources Code

Section 5097.9 of the California Public Resources Code stipulates that it is contrary to the free expression and exercise of Native American religion to interfere with or cause severe or irreparable damage to any Native American cemetery, place of worship, religious or ceremonial sites or sacred shrine.

Section 5097.5 of the California Public Resources Code makes it a misdemeanor for a person to knowingly and willfully excavate upon, or remove, destroy, injure or deface any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site situated on public lands, except with expressed permission of the public agency having jurisdiction over such lands. As used in this section, (Public Lands) means lands owned by, or under the jurisdiction of the State, or any City, County, district, authority or public corporations, or any agencies thereof.

Section 622 1/2 of the California Penal Code makes it a misdemeanor to disfigure, deface or destroy any object of archaeological or historical interest or value, whether situated on public lands or within any public park or place.

### 4. Health and Safety Code

Several statutes regulate exhumations, dissections, mutilations, removal, interment, collection by unauthorized agencies and individuals of historic and archaeological Native American remains.

Section 7052 of the California Health and Safety Code makes it a felony to mutilate, disinter or remove from the place in interment any human remains. This felony is punishable by up to 5 years in prison.

Section 8101 of the California Health and Safety Code requires up to six months in jail and/or \$ 500 fine for obliterating or disturbing a grave. Other sections of the Health and Safety Code relate to Historic remains regarding death certificates, disposition permits, markers or location records and burial places (H & S 7054, 7500, 10375, 7114, 7052 and Government Code 27491). These laws require that the coroner's office be contacted in the event that human remains are uncovered.

as indicated above, these various policies do not apply to archaeological resources on private lands; nor do they provide adequate protection of archaeological resources from developments on publicly held lands.

## C. ISSUES AND CONCERNS

One of the basic issues raised in protecting archaeological resources is the conflict between the need to inventory existing and potential sites and the preservation of those sites once their location becomes public knowledge. Archaeologists avoid revealing site locations because of the temptation for many people to search for artifacts once a site is publicly known.

A second protection issue is that the location of known sites does not reflect the potential importance of portions of the coast that have not yet been surveyed (in fact, the majority of the coast.) This is an important issue when defining the types of projects that should require a preliminary survey of archaeological resources, because most known sites have been discovered as a result of development activity and public access.

In general, urbanization and uncontrolled public access appear to be the principal sources of destruction of archaeological sites. The direct threats posed by urbanization include: grading activities (both agricultural and construction related); residential and industrial construction; construction of roads and highways; water projects (eroding and burying sites); pipeline projects; off-road vehicles; recreational developments; natural forces (water and wind); and unauthorized collection of artifacts. One of the most significant indirect threats to the integrity of archaeological sites is public access. Vandalism has always been a source of site destruction and its probability increases with enhanced access to areas of archaeological significance. Any increase in temporary or permanent population in the vicinity of a site increases its vulnerability to disturbance. Construction of public roads that provide access to areas of archaeological significance or publication of known site locations can also increase vandalism.

Single-family residential development on individual building lots presents an important dilemma in determining the necessary scope of archaeological review. Under the California Environmental Quality Act (CEQA), single-family residences and residential projects of less than four units are exempt from environmental review unless archaeological resources are known to be on the property. Thus, the information necessary to locate structures to preserve archaeological resources may not be available or used. Proposed development on large lots will have some flexibility to enable clustering structures on the least damaging portions of a site.

## D. ARCHAEOLOGY POLICIES

Policy 4.01 Where necessary significant archaeological and historic resources shall be preserved to the greatest extent possible both on public and privately held lands.

Policy 4.02 The City shall establish and maintain an inventory of archaeological site records. A sensitivity map shall be developed based on available information on file with the California Archaeological Site Survey Office. This information shall be treated as confidential to protect the archaeological resources. Until the mapping has been completed, an archaeological reconnaissance performed by a qualified archaeologist and/or a review of record sites shall be required of all projects applying for a coastal permit.

- Policy 4.03 An archaeological reconnaissance performed by a qualified archaeologist shall be required as part of the permit review process for projects with areas identified as having potential archaeological sites. An archaeological reconnaissance will be required for all projects requiring an Environmental Impact Report under CEQA.
- Policy 4.04 where archaeological resources are found as a result of a preliminary site survey before construction, the City shall require a mitigation plan to protect the site.
- Policy 4.05 Where archaeological resources are discovered during construction of new development, or through other non-permit activities (such as repair and maintenance of public works projects) all activities shall cease until a qualified archaeologist knowledgeable in Chumash culture can determine the significance of the resource and designate alternative mitigation measures. Development that impacts archaeological resources shall be required to mitigate impacts in one of the following manners:
- a. Removal of artifacts
  - b. Dedication of impacted area as permanent open space
  - c. Coverage of archaeological site by at least 24 inches of sterile sand.
- Policy 4.06 Any archaeological sites of state-wide significance shall be nominated for inclusion in the Registry of California Historic Landmarks. Those of national significance shall be nominated for inclusion the National Registry of Historic Place and the National Historic Landmark Program.
- Policy 4.07 All available measure, including purchases, tax relief, purchase of development rights, etc. shall be explored to avoid development on significant archaeological sites. Where sites containing significant archaeological resources are already in public ownership including ownership of the City, the City shall encourage the retention of the site in public ownership and the protection of the archaeological resources. The transfer of City owned properties containing significant archaeological resources shall be accompanied by a deed restriction containing provisions protecting the archaeological resources on the site.
- Policy 4.08 Activities other than development which could damage or destroy archaeological resources including, but not limited to, off-road vehicle activity and unauthorized collecting of artifacts, shall be prohibited unless specifically permitted by the permit issuing agency with provisions for adequately protecting any archaeological resources.