

## 3.4 CULTURAL RESOURCES

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### INTRODUCTION

This section analyzes the impacts of the Whole Foods and the Park Shopping Center Project on cultural resources. The analysis in this section was prepared based on the Phase I Archaeological Resources Study prepared for the project site by Historical Environmental Archaeological Research Team (HEART) in 2010 and additional sources cited below.

### ENVIRONMENTAL SETTING

#### Existing Conditions

The project site is located north of the Pacific Ocean and the Pacific Coast Highway (PCH), west of the City of Santa Monica, east of the City of Oxnard, and south of the City of Calabasas, in the City of Malibu. The project site is bounded on the north by commercial development on the south by Civic Center Way, on the east by Cross Creek Road, and on the west by vacant land. The project site and adjacent properties are illustrated in **Figure 2.0-3, Project Boundary**, in **Section 2.0, Project Description**.

The project site is currently vacant and dominated by flat, previously leveled alluvial terrain. The site is currently fenced on all sides with a gated entry on the south from Civic Center Drive. The southern portion of the site has been graded and contains gravel bedding, particularly in the eastern portion fronting Civic Center Drive and Cross Creek Road. The northern portion contains more trees and shrubs with a water tank and several cement pads near the northwest corner.

A record search performed at the South Central Coastal Information Center (SCCIC) at California State University, Fullerton, indicated that no previously recorded prehistoric or historic archaeological resources exist within the boundaries of the project area. The record search identified the following cultural resources within a 0.5-mile radius of the project site:

- One historic archaeological site CA-LAn-387H is recorded to the northeast as the possible site of the Tapia Ranch. The site is described as being in a large, open field containing olive and fruit trees encompassing several acres on the west side of Palm Canyon Drive. Artifacts noted in August 1969 included an 1856-nickel, adobe bricks, charred timbers, a shell button, metal objects, and stone foundations. The ranch was constructed circa 1805 and was in use into the 1830s before being abandoned.
- Nine prehistoric archaeological sites are recorded: CA-LAn-264 (discussed below), CA-LAn-266, CA-LAn-267, CA-LAn-386, CA-LAn-404, CA-LAn-1417, CA-LAn-1715, CA-LAn-1991, and CA-LAn-2247.

- CA-LAn-264, the village of Humaliwu lies to the southeast of the project site, occupied by the Adamson House and Malibu Lagoon State Historic Park. The site is one of the largest, deepest, and best studied archaeological deposits in Southern California. It contains both a prehistoric cemetery, dating back 1,000 years, and a historic-era cemetery that was in use from 1775 to 1825. The Malibu site has been excavated several times in the past. Within the grounds of the Adamson House, archaeological deposits are more than 15 feet thick, consisting primarily of shell midden. Within the parking lot area of Surfrider Beach, and the south shoulder of PCH, a prehistoric cemetery has been found; north of PCH, a proto-historic cemetery was located. More than 200 burials have been removed from the site.<sup>1</sup>
- The Adamson House<sup>2</sup> is listed on the National Register of Historic Places (NRHP) and is located in the Malibu Lagoon State Park. Completed in 1929 by the Rindge's daughter, Rhoda Adamson, the Spanish-Moor revival residence features tile from the renowned Malibu Potteries and sits on a spectacular overlook of the Malibu Pier and Surfrider Beach.

In addition, a *Historical and Archaeological Resources Technical Report for the Malibu Civic Center Wastewater Treatment Facility Project* consulted national, state, and local inventories of archaeological, architectural, and historic resources within the vicinity of the proposed wastewater facility to determine the location of previously document archeological, historic, and architectural resources.<sup>3</sup> (This report is included in **Appendix 3.4**). The proposed wastewater treatment facility is located less than 1 mile from the project site, thus historical, archaeological, and paleontological resources identified in the cultural resources report referenced above are expected to be similar for the project site.

The cultural resources report identified two properties listed on the NRHP: The Adamson House (discussed above) and the Stevens House,<sup>4</sup> located at 23524 Malibu Colony Road, approximately 0.6 mile from the project site. In addition, the Malibu Pier, approximately 0.9 mile from the project site, is listed on the California Register of Historic Resources (CRHR) as a California Point of Historical Interest.

The report cited a large number of previously recorded prehistoric archaeological resources. This finding is not surprising as the coastal Malibu area is a well-known area of high archaeological sensitivity and nine prehistoric archaeological sites within 0.5-mile radius of the project site have been previously recorded at the SCCIC (see discussion above).

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<sup>1</sup> ICF International, *Historical and Archaeological Resources Technical Report for the Malibu Civic Center Wastewater Treatment Facility Project*, May 2014.

<sup>2</sup> This structure was listed on the NRHP on October 28, 1977 ID # 77000298.

<sup>3</sup> ICF International, *Historical and Archaeological Resources Technical Report for the Malibu Civic Center Wastewater Treatment Facility Project*, May 2014

<sup>4</sup> This structure was listed on the NRHP on January 9, 2009 ID # 09000802.

In addition to a records search the cultural resources report sent letters to consulting and interested parties who may have knowledge of or concerns regarding historic properties in the area. These include:

- Los Angeles Conservancy
- Historical Society of Southern California
- California Coastal Commission
- Adamson House and Malibu Lagoon Museum

Information regarding historic buildings, districts, sites, objects, or archeological sites of significance in the area was requested. No responses were received from any of the four consulting and interested parties.

A field survey of the architectural resources in the area was conducted and found that five properties appear eligible for the CRHR: the Webster School located at 3602 Winter Canyon Road, the Pepperdine campus located at 24255 PCH, the Malibu Coast Animal Hospital building 23431 PCH, the Malibu Urgent Care Center building located at 53656 PCH (formerly the Malibu Post Office),<sup>5</sup> and the Hunt House located at 24514 Malibu Road.

### *Geologic and Paleontological Setting*

The project site occurs within the Transverse Ranges Geomorphic Province, an east-west trending series of steep mountain ranges and valleys extending from Point Arguello on the west to the Pinto and Eagle Mountains in eastern California. The Santa Monica Mountains are the south-central mountain chain in the Transverse Ranges of Southern California. There has been periodic uplift in the area since the Oligocene collision of the Pacific Plate and the North American Plate. However, the mountain building of the Santa Monica Mountains occurred in the last few million years, due to north south compression from plate movement. Regional uplift due to intense north-south plate movement compression forces has caused many sedimentary rocks of the Santa Monica Mountains to tilt and uplift, exposing formations with extensive fossilized remains. Rock formations found within the Santa Monica Mountains are primarily thick marine sedimentary sequences of sandstone, siltstone, and mudstone, as well as volcanic deposits that range in age from the Jurassic to the Quaternary. The Los Angeles County region is

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<sup>5</sup> While “53636 PCH” is the mailing address and physical address on the building, it is part of a larger legal parcel that has three total buildings and is listed as “23670 PCH” by the Los Angeles County Assessor.

considered one of the richest areas in the world for both fossil marine vertebrates and land vertebrates from sediments deposited over the last 25 million years.<sup>6</sup>

The project site is situated on surficial deposits of younger Quaternary alluvium, derived from either fan deposits from the mountains to the north or fluvial deposits from Malibu Creek to the east. The uppermost layers of these deposits typically do not contain significant fossil vertebrate remains, and there are no nearby vertebrate fossil localities from such deposits. However, there are some nearby exposures of older Quaternary deposits. These deposits may occur in and around the project site at depths as shallow as 5 feet below the surface. These sediments are known to encompass paleontological resources.<sup>7</sup>

There are at least 2,300 known fossil localities, representing over a dozen fossiliferous geologic formations within the Santa Monica Mountains National Recreation Area which include invertebrate, vertebrate, paleobotanical, protista, and trace fossils. Oligocene to Miocene deposits can be found in Malibu, Malibu Creek State Park, Zuma Canyon, and Trancas Canyon. Additionally, the Sespe Formation can be found in the Red Rock Canyon and Topanga State Park areas, and the Vaqueros Formation is also in Point Mugu State Park.<sup>8</sup>

The closest vertebrate fossil locality with similar older Quaternary deposits is Natural History Museum of Los Angeles County site 1754, which is located southwest of the project site on the east side of Zuma Creek, south of PCH, in the community of Malibu Rivera. This locality produced extensive fossil faunal specimens of late Pleistocene vertebrates.<sup>9</sup>

### ***Prehistoric Setting<sup>10</sup>***

The prehistoric occupation of Southern California is divided chronologically into four periods: the Paleoindian, Early, Middle, and Late Periods. The Paleoindian Period, began at the first appearance of people in the region (around 8,000 before present [BP]) and continued until about 6,000 BP. Paleoindian groups during this time likely focused on hunting terrestrial game, as indicated by the discoveries of large, fluted projectile points from this period occurring in a few documented Southern California sites. Plants and smaller animals were undoubtedly part of the Paleoindian diet as well, and when the availability of large game was reduced by climatic shifts near the end of the Pleistocene, the subsistence strategy changed to a greater reliance on these resources. The subsequent Early, Middle, and Late periods

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<sup>6</sup> City of Malibu General Plan, 1995

<sup>7</sup> Malibu Civic Center Wastewater Treatment Facility Project Draft EIR

<sup>8</sup> Santa Monica Mountains Paleontological Survey, 2004

<sup>9</sup> Malibu Civic Center Wastewater Treatment Facility Project Draft EIR

<sup>10</sup> Rancho Malibu Hotel EIR, 2013

are based on a chronological sequence discussed in the Report of Initial Archaeological Study at Bluffs Park, Malibu, California. A report developed for the Santa Monica Mountains region.

The Early Period (6,000 to 800 BP) came out of the Post-Pleistocene, marked by changes in climate and environmental conditions that are reflected in the local archaeological record. This period is characterized by widespread use of groundstones (manos and metates) which is its main diagnostic feature. Groundstones were used to grind hard seeds such as sage for consumption, and expanded the food resource base available to early populations in the area. This period appears to represent a diversification of subsistence activities and a more sedentary settlement pattern. Archaeological evidence suggests that hunting became less important and that reliance on collecting plant resources increased. While archaeological debate still exists about the permanence of Early Period settlements, it is generally accepted that a few large settlements in the region were heavily used year-round with smaller settlements used on a seasonal basis. In addition, the period saw an increase of larger settlements with associated larger scale cemeteries.

The Middle Period (800 BP to 1100 common era [CE]) is characterized in the archaeological record by a shift from the use of milling stones to increased use of mortar and pestle, possibly indicating a greater reliance on acorns as a food source. This may indicate a transition from seed gathering to oak tree acorn gathering and processing, a result of cooler temperatures and more expansive oak woodland habitats. Additionally, materials from Middle Period sites reflect a greater reliance on marine resources and include marine shells, fish remains, and fishhooks. Terrestrial resources continued to be exploited as evidenced by the presence of contracting-stemmed and corner-notched projectile points from Middle Period sites. Toward the end of the Middle Period the plank canoe was developed, making ocean fishing and trade with the Channel Islands safer and more efficient.

The Late Period (1100 to 1840 CE) is characterized by dense populations; diversified hunting and gathering subsistence strategies, including intensive fishing and sea mammal hunting; extensive trade networks; use of the bow and arrow, and a general cultural elaboration. Trade networks, as evidenced by a diversification and increase in shell-bead manufacture, may have expanded and played an important part in local culture for Southern California groups. Shell beads, found throughout the Early and Middle Periods, increased in number and variety during the Late Period, and are thought to be related to status and social value within and between cultural groups. The increased population and change in distribution/trade expanded and played an important role in the reinforcement of craft specialization and status. By the end of the Late Period, the Chumash culture had been dramatically changed by the arrival of a Spanish expedition led by Gaspar de Portola in 1769. This contact paved the way for the establishment of the Missions of Santa Barbara, San Buenaventura, Santa Ynez, and La Purisima.

### *Ethnohistory*

The project site encompasses a border region between lands traditionally occupied by both the Chumash and the Tongva peoples. The Chumash occupied the region from San Luis Obispo to Malibu Canyon on the coast, the four northern Channel Islands, and inland regions as far as the western edge of the San Joaquin Valley. The coastal Chumash are subdivided into subgroups based on six distinct language dialects: Barbareno, Ventureno, Purisimeno, Ynezeno, Obispeno, and Island. The project site is situated within the southernmost territory of the Ventureno, a coastal Chumash group; a name derived from the nearest Spanish mission, San Buenaventura. Evidence of large Chumash village sites occur along the coast from Malibu to San Luis Obispo, with some populations on the Santa Barbara Channel Islands, and others in the interior mainland valleys, such as Santa Ynez, Cuyama, and Santa Clara Valleys.

The Chumash had a high level of social organization, and material object production. The Spanish explorers viewed the Chumash as unique among the California Native Americans due to their knowledge of the sea, canoe building expertise, ceremonial organization, their interest in acquiring and displaying possessions, willingness to work, and their extensive trade networks. They were excellent craftsmen and were known for well-made tools and basketry, as well as the production of plank canoes, called tomols. Of note is the Chumash use of steatite, a type of soapstone, to create bowls and carvings of birds and other forms of sea life. Sometimes artifacts were inlaid with colorful abalone shells. Class differentiation, inherited chieftainship, and inter-village alliances were all components of Chumash society.

There are approximately 120 known archaeological sites in the City. Sites in the Santa Monica Mountains include village sites, burial grounds, camps, or food processing areas, quarries and rock art sites. Within the boundaries of the City, four villages have been identified which were occupied during the period of recruitment to Spanish missions between 1785 and 1810. These villages were (east to west) Lisiqshi, Sumo, Lojostogni, and Humaliwo. Humaliwo village, located approximately 1.2 miles east of the project site, was one of the most important Chumash villages in the region. Extensive cultural remains are present at this site as well as evidence of numerous human burials. Portions of the site may date as far back as 7,000 years BP. The Humaliwo village site, which is listed on the National Register of Historic Places (NRHP), was originally recorded in 1959, and several excavations took place there in the 1960s and 1970s. It consists of five components: an Early/Middle Period deposit, a Middle Period deposit, a Middle Period cemetery, a Late Period deposit, and an historic era cemetery. Numerous artifacts and other cultural materials have been collected from the site, which includes of an extensive shell midden. The site has more than 200 burial plots, some with tomols. Some burials included numerous shell and glass beads, and fish and whale effigies.

The village of Sumo is the second largest Chumash site to have been identified in Los Angeles County. The village may have included the entire Point Dume area, potentially extending as far east as Malibu Canyon.

The Tongva peoples, also referred to as the San Gabriel Band or Gabrielino, are a historic Native American people who have inhabited the area of present-day Los Angeles and Orange counties, as well as Santa Catalina and San Clemente Islands. Tongva populations were smaller than neighboring Chumash, and are estimated at nearly 5,000 people at the time of European contact. 90 percent of the mainland Tongva territory lay in extremely resource rich areas consisting of high desert woodland and chaparral where abundant food resources included acorn, pine nut, small game, deer, and quail. The Tongva, much like their Chumash neighbors, created plank canoes, which they called ti'ats. These plank canoes were caulked and coated with either pine pitch or, more commonly with tar that was available either from the La Brea Tar Pits, or as asphaltum that had washed up on shore from offshore oil seeps.

Other aspects of the Tongva material culture are similar to the Chumash, including the manufacture and use of shell beads. Evidence from the registers at Mission San Gabriel and San Fernando indicate that the Tongva of the Santa Monica Mountains were members of the western Tongva group, and had few marriages between their eastern Tongva neighbors near the Los Angeles River drainage.

### ***Historical Background<sup>11</sup>***

The first recorded European activity in the Malibu region occurred in 1542 when Spanish sailor Juan Cabrillo anchored near Malibu Lagoon to obtain fresh water. Sailing northward up the California coast, he claimed this landfall for the King of Spain. He stayed only a few days, filling his water casks and naming this tranquil lagoon and beach in his log the "Pueblo de las Canoas" (Town of the Canoes) because of the many Chumash and Tongva people in canoes that came to visit his ships from the adjacent village. After this, more than 200 years were to pass before further Spanish contact. An expedition led by Spanish explorer Juan Bautista de Anza camped at Malibu Creek in 1776. One member of this expedition, Jose Bartolome Tapia, rode down the canyon to the beach to explore the area. The Tapia family ultimately settled in Northern California where Jose Tapia became mayordomo of the San Luis Obispo Mission rancho. The first Franciscan mission in Chumash territory was built in San Luis Obispo in 1772.

Five additional missions were built in this cultural area: San Buenaventura (1782), Santa Barbara (1786), La Purisima Concepcion (1787), San Fernando (1797), and Santa Ynez (1804). Inhabitants of the Malibu area were recruited into these missions. By 1805, most native inhabitants of the Malibu area had been incorporated into the Mission system, either at Mission San Fernando or Mission San Buenaventura, and

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<sup>11</sup> Rancho Malibu Hotel EIR, 2013

many traditional Chumash and Tongva villages were abandoned. In 1800, Jose Tapia and his family returned to Southern California and began farming near San Gabriel. Tapia then applied for a grant of the land he had seen in 1776, and due to his previous service in the army, he was awarded an area of about 13,330 acres called Rancho Topanga Malibu Sequit (or Rancho Malibu). The rancho remained intact until the entire property was sold in 1848 to Leon Prudhomme, who acquired the property during the transition period between Mexican rule and United States (US) administration of California. When the US Land Commission began hearings in 1852, Prudhomme put in his claim for Rancho Malibu. No documents could be produced proving the early-day grant to Jose Tapia. A search of the surveyor general's office in San Francisco proved futile, and in 1854, the commissioners turned down Prudhomme's claim that year. Prudhomme eventually sold the property at a discounted price to Irishman Don Matteo Keller in 1857.<sup>12</sup>

After Keller's death in 1881, his son Henry Keller, assumed ownership of the property. He sold it in 1892 to Federick Hasting Rindge, son of a prominent Boston family. Rindge's significance in Southern California was distinguished by his founding of the Conservative Life Insurance Company (Pacific Life Insurance) and his tenure as vice president of Union Oil and director of the Los Angeles Edison Electric Company (Southern California Edison). He purchased Rancho Malibu, in part, to fulfill his desire for a farm near the sea. He would use the vast property of coastal land as a working cattle ranch where he also grew crops such as citrus, barley, and lima beans.<sup>13</sup>

When Rindge died unexpectedly in 1905, his wife, Rhoda "May" Knight Rindge, became the beneficiary of his 22 million dollar estate, which included the Rancho Malibu property. During the time of her ownership, Malibu transitioned from a private enclave to a fashionable beachfront community. In addition, the State of California and local jurisdictions sought to build a road through Rancho Malibu to connect Los Angeles and Ventura Counties. However, Rindge spent considerable time fighting off eminent domain court cases regarding her exclusive ownership of the property. The US Supreme Court eventually sided with the State of California in 1923, and construction began on the Roosevelt Highway (now the Pacific Coast Highway [PCH]) in 1926. Despite the court ruling, Rindge refused to sell the property and instead began to lease lots west of Malibu Lagoon to the burgeoning Hollywood elite. Swedish silent film star Anna Q. Nilson was the first of a string of film stars who would build beachfront retreats along the Malibu coast in the 1920s and 1930s.<sup>14</sup> Rhoda Agatha Rindge Adamson, daughter of May Rindge, commissioned the construction of the now -historic Adamson House in 1929. The house is noted for its decorative tiles, which were produced locally at Malibu Potteries, a ceramic tile

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<sup>12</sup> Marcus, Ben, and Wanamaker, Marc. 2011. *Malibu*. Charleston, SC: Arcadia Publishing, pp. 7-8

<sup>13</sup> Marcus, Ben, and Wanamaker, Marc. 2011. *Malibu*. Charleston, SC: Arcadia Publishing, pp. 8-9

<sup>14</sup> Finke, Nikki. 1989. "Malibu Metamorphosis." *Los Angeles Times*. September 3.

manufacturing firm started by May Rindge in 1926 that employed 125 workers at its height.<sup>15</sup> In 1934, the Malibu Pier was opened to the public and became an important attraction for the area.<sup>16</sup>

Even with the increase in land values in Malibu, the onset of the Great Depression almost completely wiped out the fortunes of the Rindge estate. May Rindge's 1935 bankruptcy allowed residents to purchase lots that they previously leased while developers acquired other portions of the former rancho. With May Rindge's death in 1941, the era of Malibu as a vast privately owned rancho had officially come to an end.<sup>17</sup>

As the original Malibu Rancho continued to be subdivided and sold through the 1940s, both homes and commercial buildings began to dot the rural landscape. Commercial enterprises prospered along PCH with the ever-increasing auto traffic. With the completion of Malibu Canyon Road in 1953, the area became more accessible to the numerous visitors from the growing San Fernando Valley. During the 1950s and 1960s, Malibu became synonymous with Southern California beach culture. This was also an era of population growth as Malibu increased its population from 2,328 residents in 1950 to 7,376 residents by 1960.

Through the 1970s and 1980s, the area between PCH and the beach was developed with large-scale homes and condominiums. Prompted by growth and environmental issues, the City of Malibu incorporated in 1991 to gain more local control over development. The city currently extends 22 miles from the City of Los Angeles, northward to the Ventura county line.

The land remained primarily for ranching until the State of California constructed and opened PCH in 1928. Residential and commercial development began by 1929 in both the Malibu and Topanga areas. May Rindge and her daughter, Rhoda Rindge Adamson, gradually sold off parcels of the property over time. By 1962, the sale of land reduced the family's land holdings to 4,000 acres. The City of Malibu was formally incorporated in 1991, and the Topanga area remains an unincorporated community of Los Angeles County.

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<sup>15</sup> Kaufman Koeing, Gloria. 1985. "Malibu's House of Living History." *Los Angeles Times*. August 25.

<sup>16</sup> Russel, Ron. 1989. "Malibu Pier May Get the Attention It Needs to Match Surroundings." *Los Angeles Times*. November 26

<sup>17</sup> Willman, Minor. 1968. "Indian Paths Become Highways of History." *Los Angeles Times*. August 11.

## REGULATORY FRAMEWORK

### Federal

#### *National Register of Historic Places*

The National Register of Historic Places (National Register) is the country's master inventory of known historic resources and includes listings of buildings, structures, sites, objects, and districts that possess historic, architectural, engineering, archaeological, or cultural significance at the national, state, or local level.

Title 36, Part 60 of the Code of Federal Regulations is a series of regulations that cover the National Register. Specifically, Title 36, Part 60.4 of the Code of Federal Regulations specifies the criteria applied to evaluate properties eligible for inclusion in the National Register. There are four criteria under which a structure, site, building, district, or object can be considered eligible for listing on the National Register. These include resources that are one or more of the following:

- **Criterion A:** Are associated with events that have made a significant contribution to the broad patterns of our history; or
- **Criterion B:** Are associated with the lives of persons significant in our past; or
- **Criterion C:** Embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- **Criterion D:** Have yielded, or may be likely to yield, information important in prehistory or history.<sup>18</sup>

There is also a general stipulation that the resource (structure, site, building, district, and object) be at least 50 years old, although there are exceptions to that rule (see Title 36, Part 50.4 of the Federal Code of Regulations, Criteria Considerations a through q). Properties under 50 years of age that are of exceptional importance or are contributors to a district can also be included on the National Register. The eligibility of a cultural resource for nomination to the National Register may be based on any of the above four criteria together with their integrity.

Historical period properties are best evaluated and supported by historical research, whereas Criterion D is typically documented by archaeological investigation. A property need not actually be listed on the National Register to be protected by the National Historic Preservation Act, but must be considered

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<sup>18</sup> Code of Federal Regulations, Title 36, Part 60.4.

eligible for listing on the National Register. Archaeologists assess sites based on all four criteria, but prehistoric sites are primarily considered under Criterion D. If cultural resources do not meet the above criteria, they are not considered historical properties and are not further included in the Section 106 process.

## State

### *California Public Resources Code*

The California Public Resources Code defines any unauthorized disturbance or removal of a fossil locality or remains on public land as a misdemeanor,<sup>19</sup> and requires reasonable mitigation of adverse environmental impacts that result from development of public land and affect paleontological resources.<sup>20</sup>

### *California Senate Bill 297*

This bill addresses the disposition of Native American burials in archaeological sites and protects such remains from disturbance, vandalism, or inadvertent destruction; establishes procedures to be implemented if Native American skeletal remains are discovered during construction of a project; and establishes the Native American Heritage Commission to resolve disputes regarding the disposition of such remains. It has been incorporated into Section 15064.5(e) of the *California Environmental Quality Act (CEQA) Guidelines*.

### *California Register of Historical Resources*

The California State Historical Resources Commission has designed this program for use by state and local agencies, private groups and citizens to identify, evaluate, register, and protect California's historical resources. The California Register is the authoritative guide to the state's significant historical and archaeological resources. The California Register program encourages public recognition and protection of resources of architectural, historical, archaeological, and cultural significance, identifies historical resources for state and local planning purposes, determines eligibility for state historic preservation grant funding, and affords certain protections under CEQA.

The criteria for inclusion in the California Register of Historical Resources include any object, building, structure, site, area, place, record, or manuscript that is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.

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<sup>19</sup> California Public Resources Code, Section 5097.5 (Statute 1965, Chapter 1136, Paragraph 2792).

<sup>20</sup> California Public Resources Code, Section 30244.

Generally, a resource shall be considered “historically significant” if the resource meets the criteria for listing on the California Register of Historical Resources<sup>21</sup> which includes the following criteria:

1. Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;
2. Is associated with the lives of persons important in our past;
3. 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
4. Has yielded, or may be likely to yield, information important in prehistory or history.

The California Register automatically includes the following:

- California properties listed or formally determined eligible for listing in the National Register of Historic Places
- California Registered Historical Landmarks from No. 0770 onward
- California Points of Historical Interest that have been evaluated by the Office of Historic Preservation and have been recommended to the State Historical Resources Commission for inclusion in the California Register

Other resources may be nominated for listing in the California Register based on the criteria stated above.

Additionally, a resource must retain historic architectural integrity in terms of location, design, setting, materials, workmanship, feeling, and association. The California Register procedures include language similar to the National Register criteria (discussed above) with regard to integrity.

As with the National Register, the minimum age criterion for the California Register is 50 years. Properties less than 50 years old may be eligible for listing on the California Register “if it can be demonstrated that sufficient time has passed to understand its historical importance.”<sup>22</sup>

The California Register may also include properties listed in “local registers” of historic properties. A “local register of historic resources” is broadly defined in Public Resources Code Section 5020.1(k) as “a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution.” Local registers of historic properties come in two forms: (1) surveys of historic resources conducted by a local agency in accordance with Office of Historic Preservation procedures and standards, adopted by the local agency and maintained as current; and

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<sup>21</sup> Pub. Res. Code SS5024.1, Title 14 CCR, Section 4852

<sup>22</sup> California Code of Regulation, Chapter 11, Title 14, Section 4842(d)(2).

(2) landmarks designated under local ordinances or resolutions (Public Resources Code Sections 5024.1, 21804.1, 15064.5).

### *California Environmental Quality Act*

Section 21084.1 of the Public Resources Code provides the framework for determining whether a property is a historic resource for CEQA purposes.

A resource is considered historically significant, and therefore a historical resource under CEQA, if it falls into one of the three following categories as defined by Section 21084.1 of the California Public Resources Code:

- “Mandatory historical resources” are resources “listed in, or determined to be eligible for listing in, the California Register of Historical Resources.”
- “Presumptive historical resources” are resources “included in a local register of historical resources, as defined in subdivision (k) of Section 5020.1, or deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1” of the Public Resources Code, unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant.
- “Discretionary historical resources” are those resources that are not listed but determined to be eligible under the criteria for the California Register of Historical Resources.<sup>23</sup>

A lead agency must consider a property a historic resource under CEQA if it is listed in, or determined to be eligible for listing in, the California Register. Historical resources included in a local register of historical resources, as defined in subdivision (k) of Section 5020.1, or deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1, are presumed to be historically or culturally significant for purposes of CEQA, unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant. The fact that a resource is not listed in, or determined to be eligible for listing in, the California Register of Historical Resources, not included in a local register of historical resources, or not identified in an historical resources survey meeting the criteria of subdivision (g) of Section 5024.1, shall not preclude a lead agency from determining whether the resource may be an historical resource for purposes of CEQA.<sup>24</sup>

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<sup>23</sup> California Public Resources Code, Section 21084.1.

<sup>24</sup> California Public Resources Code, Section 21084.1.

## Local

### *Local Coastal Plan (LCP)*

The purpose of the LCP is to protect coastal resources while accommodating appropriate land use development within the Coastal Zone, including providing a range of policies to ensure adequate avoidance of historic, prehistoric, archaeological, and other classes of cultural sites.

Chapter 11, Archaeological/Cultural Resources, of the LCP's Local Implementation Plan (LIP) contains provisions to avoid damage to or destruction of important cultural resources within the City. LIP Section 14 11.3 provides various steps and stages for evaluation of the cultural resources, provisions to evaluate the resources, and provisions for mitigation programs to reduce impacts on cultural resources. The chapter provides a detail procedure of dealing with cultural resources if encountered during development activities.

The following relevant cultural policies are included in the LCP:

- LUP Policy 5.60:** New development shall protect and preserve archaeological, historical, and paleontological resources from destruction, and shall avoid and minimize impacts to such resources.
- LUP Policy 5.61:** Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.
- LUP Policy 5.62:** The City should coordinate with appropriate agencies, such as the UCLA Archaeological Center, to identify archaeologically sensitive areas. Such information should be kept confidential to protect archaeological resources.
- LUP Policy 5.63:** Coastal Development Permits for new development within archaeologically sensitive areas shall be conditioned upon the implementation of the appropriate mitigation measures.
- LUP Policy 5.64:** New development on sites identified as archaeologically sensitive shall include on-site monitoring of all grading, excavation and site preparation that involve earth moving operations by a qualified archaeologist(s) and appropriate Native American consultant(s).

**LUP Policy 5.65:** The establishment of a museum/visitor center to display local archaeological and or paleontological artifacts and to provide public educational information on the cultural and historic value of these resources shall be encouraged.

### ***City of Malibu Municipal Code***

Chapter 17.54 of the City's Municipal Code contains provisions to avoid the damage to or destruction of important cultural resources within the City 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.

### ***City of Malibu General Plan***

The City's General Plan is primarily a policy document that sets goals concerning the community and gives direction to growth and development. In addition, it outlines the programs that were developed to accomplish the goals and policies of the General Plan. The Plan's Conservation Element serves as a guide for the conservation, protection, restoration, management, development, and appropriate and responsible utilization of the City's existing natural resources. The element includes goals, policies, and implementation measures pertaining to the protection of archaeological resources such as, the preservation and protection of historic, cultural, paleontological, and/or archeological sites and/or structures, and the review of all development applications to determine whether the project may have an adverse impact on cultural resources. The Conservation Element includes the following goals and policies as well as implementation measures pertaining to the proposed project and cultural resources:

- CON Goal 2:** Cultural resources preserved and protected.
- CON Objective 2.1:** Historic, Cultural, and Archeological resources preserved for future generations and scientific study.
- CON Policy 2.1.1:** The City shall identify, designate, protect, and preserve areas, sites, or structures of historic, cultural, paleontological, and/or archeological significance.
- CON Policy 2.1.2:** The City shall avoid the destruction or alteration of cultural resources.
- CON Policy 2.1.3:** The City shall provide incentives to property owners of historical structures to encourage preservation of designated cultural resources.

**CON Implementation Measure 76:** Work with appropriate agencies, such as the UCLA Archeological Center, to keep current maps of significant archeological areas.

**CON Implementation Measure 77:** Maintain archives and a database of completed research and studies.

**CON Implementation Measure 78:** Review all applications for development to determine whether the development may have an adverse impact on cultural resources.

**CON Implementation Measure 79:** Require site surveys to be performed by qualified technical personnel for projects located in areas identified as archaeologically/paleontologically sensitive. Data derived from such surveys shall be used to formulate mitigation measures for the project, and all such feasible mitigation measures shall be applied to the project.

**CON Implementation Measure 80:** Adopt standards for replacement expansion, remodel, and restoration of designated historic structures to preserve integrity of design.

**CON Implementation Measure 81:** Cooperate with volunteer organizations to preserve and restore historic sites and structures.

**CON Implementation Measure 82:** Encourage proper curation, and prohibit casual collection of significant artifacts.

**CON Implementation Measure 83:** Support the establishment of a museum/study center in the study area to display archeological/paleontological artifacts and to present continuing programs to acquaint the public with the cultural and historic value of these resources.

**CON Implementation Measure 84:** Explore all available measures; including purchase, tax relief, and purchase or transfer of development rights to avoid development on historic, prehistoric, archeological, and other classes of cultural sites.

## ENVIRONMENTAL IMPACTS

### Thresholds of Significance

The following thresholds for determining the significance of impacts related to cultural resources are contained in the environmental checklist form contained in Appendix G of the most recent update of the

*CEQA Statutes and Guidelines*. Impacts related to cultural resources are considered significant if the proposed project would:

- Cause a substantial adverse change in the significance of a historical resource as identified in Section 15064.6 of the *State CEQA Guidelines*.
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the *State CEQA Guidelines*.
- Disturb or indirectly destroy a unique paleontological resource or site or unique geologic feature.
- Disturb any human remains, including those interred outside formal cemeteries.

## Methodology

Significant effects upon cultural resources are evaluated by determining the location of known resources in regards to the proposed project's ground disturbing activities that have the potential to remove, relocate, damage, or destroy any cultural resources. Ground disturbing activities which overlap the known resource area(s) could result in direct impacts, while activities taking place near a known resource could result in indirect impacts.

The referenced *State CEQA Guidelines* section 15064.5 defines the term "historical resources" and provides that "a project with an effect that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment."<sup>25</sup> A "substantial adverse change in the significance of an historical resource" is defined as "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."<sup>26</sup>

With respect to archaeological resources and/or sites, *State CEQA Guidelines* Section 15064.5(c) provides in relevant part:

- (1) *When a project will impact an archaeological site, a lead agency shall first determine whether the site is an historical resource, as defined in subsection*
- (2) *If a lead agency determines that the archeological site is an historical resource, it shall refer to the provisions of Section 21084.1 of the public Resources Code*
- (3) *If an archaeological site does not meet the criteria defined in subsection (a), but does meet the definition of a unique archaeological resource in Section 21083.2 of the Public Resources Code, the site shall be treated in accordance with the provisions of Section 21083.2*

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<sup>25</sup> *State CEQA Guidelines*, section 15064.5(a)-(b).

<sup>26</sup> *State CEQA Guidelines*, section 15064.5(b)(1).

- (4) *If an archaeological resource is neither a unique archaeological nor an historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment*

Public Resources Code section 21083.2(g) defines a “unique archaeological resource” as follows:

- (1) *As used in this section ‘unique archaeological resource’ means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:*
- (a) *Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.*
  - (b) *Has a special and particular quality such as being the oldest of its type or the best available example of its type.*
  - (c) *Is directly associated with a scientifically recognized important prehistoric or historic event or person.*

Section 21083.2(h) defines a “nonunique archeological resource” as follows:

- (1) *As used in this section, ‘non-unique archeological resource’ means an archeological artifact, object, or site which does not meet the criteria in subdivision (g). A nonunique archeological resource need be given no further consideration, other than the simple recording of its existence by the lead agency if it so elects.*

A field survey of the project site was conducted by experienced Historical Environmental Archaeological Research Team staff meeting National Park Service standards for archaeology, architectural history, and historic preservation for performing cultural resource management studies. The project site was surveyed for surface indications of cultural resources. All exposed terrain and existing subsurface exposures such as rodent burrows were thoroughly examined. The site survey yielded no indications of significant prehistoric or historic archaeological resources within the project site.

## Impact Analysis

**Threshold 3.4-1                    Cause a substantial adverse change in the significance of a historical resource as identified in Section 15064.6 of the State CEQA Guidelines**

As discussed above, records searches performed for the project site and a site survey did not identify any historical resources within the project site. The site is currently primarily vacant, containing only one structure, a water tank that does not have historical significance. Development of the commercial uses proposed by the project would therefore not affect any historical resources within the project site.

While one historic structure, the Adamson House, is located within 0.5 mile of the project site, the development and operation of the proposed commercial uses would not adversely affect this resource. Therefore, impacts related to historic resources would be less than significant.

### ***Mitigation Measures***

No mitigation measures are required.

### ***Residual Impacts***

Impacts would be less than significant.

#### **Threshold 3.4-2            Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the State CEQA Guidelines**

The proposed project would develop five commercial structures within the currently vacant project site. Construction of the proposed commercial development would require grading of the project site and excavation for the placement of building foundations. The ground-disturbing activities could potentially disturb subsurface archeological resources. The project site is located within an area that has a history of habitation by the Chumash people, and therefore should be considered to have the potential for undiscovered archaeological resources.

The records search and site survey performed for the project site did not identify any existing archeological resources within the site. However, several archaeological sites have been recorded within a half mile of the project site including, nine prehistoric archaeological sites and one historic archaeological site.<sup>27</sup> During construction, all grading activities and surface modifications would be confined to only those areas of absolute necessity to reduce any form of impact on unrecorded (buried) cultural resources that may exist within the confines of the project site. Nonetheless, ground-disturbing construction activities could potentially uncover previously unknown archaeological resources. Subsurface resources within the project site could include artifacts, shell, bone, foundations, beads, and trash pits. Should such resources be disturbed during project construction, impacts would be potentially significant.

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<sup>27</sup> 2010 Phase I Archaeological Resources Study, Historical Environmental Archaeological Research Team (HEART)

## *Mitigation Measures*

The following mitigation measure shall be implemented:

- 3.4.1:** The services of an archaeologist shall be secured by contacting the Center for Public Archaeology – Cal State University Fullerton, or an archaeologist who meets the Secretary of the Interior’s guidelines and is listed in the Register of Professional Archaeologists, who shall be present to monitor all ground-disturbing activities associated with the Project.

Prior to initiation of ground-disturbing activities, the Project Archaeologist shall conduct a brief awareness training session for the benefit of all construction workers and supervisory personnel. The training, which could be held in conjunction with the Project’s initial on-site safety meeting and paleontological resources training, shall explain the importance of and legal basis for the protection of significant archaeological resources.

In the event that archaeological resources are exposed during ground-disturbing activities, work in the immediate vicinity of the find shall stop until the Project Archaeologist can evaluate the significance of the find. Construction activities may continue in other areas.

If the discovered cultural materials are prehistoric in nature or include Native American remains, the Project Archaeologist shall arrange for a Native American monitor to be retained to assist in the identification of the resources or human remains. The Native American monitor shall be retained from a list of suitable candidates from the Native American Heritage Commission.

The Archaeologist shall assess the discovered material(s) and prepare a survey, study, or report evaluating the impact. The Archaeologist’s survey, study, or report shall contain a recommendation(s), if necessary, for the preservation, conservation, or relocation of the resource. The applicant shall comply with the recommendations of the evaluating Archaeologist, as contained in the survey, study, or report. Project development activities may resume once copies of the archaeological survey, study, or report are submitted to:

South Central Coastal Information Center Department of Anthropology  
 McCarthy Hall 477  
 CSU Fullerton  
 800 North State College Boulevard  
 Fullerton, CA 92834

Prior to the issuance of any building permit, the Applicant shall submit a letter to the case file indicating what, if any, archaeological reports have been submitted, or a statement indicating that no material was discovered. A covenant and agreement binding the Applicant to this condition shall be recorded prior to issuance of a grading permit.

### ***Residual Impacts***

With implementation of **Mitigation Measure 3.4-1**, impacts would be less than significant.

#### **Threshold 3.4-3      Disturb or indirectly destroy a unique paleontological resource or site or unique geologic feature**

As described above, construction of the proposed project would require grading of the project site and excavation for the placement of building foundations. The ground-disturbing activities could potentially disturb subsurface paleontological resources.

The project site is generally level and does not contain any prominent geologic features or known paleontological resources. The records search and site survey performed for the project site did not identify any existing paleontological resources within the site. However, the project site is underlain by older Quaternary alluvium<sup>28</sup>, which is considered sensitive for paleontological resources (as is the Sespe Foundation which is known to underlie nearby sites), including significant vertebrate and invertebrate fossils.<sup>29</sup> Therefore, round-disturbing construction activities could potentially uncover previously unknown paleontological resources. Should such resources be disturbed during project construction, impacts would be potentially significant.

### ***Mitigation Measures***

**3.4-2:** All excavations and grading activities into the older Quaternary alluvium and/or Sespe Formation, or below a depth of 5 feet, shall be monitored by a qualified paleontologist. The on-site monitor shall be equipped and permitted to salvage fossils and samples of sediments as they are unearthed. If unearthed paleontological resources determined to be

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<sup>28</sup> *Limited Geologic and Soils Engineering Investigation*, GeoConcepts, 1999.

<sup>29</sup> *Rancho Malibu Hotel EIR*, 2013

significant by the on-site paleontologist are discovered during project construction activities, all work should halt within 50 feet of the find until it can be fully evaluated and excavated by a qualified paleontologist.

Recovered specimens shall be prepared to a point of identification and permanent preservation, including washing of sediments to recover small invertebrates and vertebrates. Specimens shall be curated into a professional, accredited museum repository with permanent retrievable storage.

A report of findings, with an appended itemized inventory of specimens, shall be prepared and submitted to the City. The report and inventory, when submitted to the City, shall signify completion of the program to mitigate impacts on paleontological resources.

### ***Residual Impacts***

With implementation of **Mitigation Measure 3.4-2**, impacts would be less than significant.

#### **Threshold 3.4-4      Disturb any human remains, including those interred outside formal cemeteries**

There are no known cemeteries or burial grounds on the project site. As previously discussed, the site has a history of use by Native Americans; therefore, there is potential for additional archaeological resources, including burial grounds, to exist. Because the potential exists for human remains to be unearthed during earthwork and grading of the project site, impacts would be potentially significant.

### ***Mitigation Measures***

The following mitigation measure shall be implemented:

- 3.4-3:**      If human remains are encountered during excavation and grading activities within the project site, the contractor shall stop such activities. In the event of accidental discovery or recognition of any human remains there shall be no further excavation or disturbance of the subject site or any nearby areas reasonably suspected to overlie adjacent human remains and the following steps shall be taken:
- The coroner of the City in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required; and,

- If the remains are of Native American origin, either of the following steps shall be taken:
  - The coroner should contact the Native American Heritage Commission in order to ascertain the proper descendants from the deceased individual. The coroner should make a recommendation to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods, which may include obtaining a qualified archaeologist or team of archaeologists to properly excavate the human remains.
  - Implementing or local agencies or authorized representatives should retain a Native American monitor, and an archaeologist, if recommended by the Native American monitor, and rebury the Native American human remains and any associated grave goods, with appropriate dignity, on the property and in a location that is not subject to further subsurface disturbance when any of the following conditions occurs:
    - The Native American Heritage Commission is unable to identify a descendent.
    - The descendant identified fails to make a recommendation.
    - The implementing agency or its authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

### ***Residual Impacts***

With implementation of the above mitigation measure, impacts would be less than significant.

### **Cumulative Impacts**

Impacts upon cultural resources tend to be site-specific and are assessed on a site-by-site basis. As discussed above, the project site and surrounding area may contain actual or potential cultural resources, although no such resources have been recorded on the project site. Because the number of cultural resources is finite, limited, and non-renewable, any assessment of cumulative impacts must take into consideration the impacts of the proposed project on resources within the project site; the extent to which those impacts degrade the integrity of the regional resource base; and impacts other projects may have on the regional resource base. If these effects, taken together, result in a collective degradation of the resource base, then those impacts are considered cumulatively considerable.

The types of resources found within the vicinity of project site reflect the types of sites expected to be found within the broader area. Trends that have led to degradation of the regional cultural resource base, and are expected to continue in the future, include pending, planned, and proposed commercial and residential development; continuing population growth and the associated demand for new housing and infrastructure; continuing and increasing recreational use of the regional landscape; and ongoing transportation development and improvement.

The pending, planned, and approved development within the Civic Center area has the potential to result in further degradation of regional coastal cultural resources, particularly given the extent of ground disturbance that would occur in previously undeveloped areas. Implementation of CEQA review for individual projects would potentially reduce individual impacts on specific sites; however, the overall disturbance to cultural resources has the potential to significantly degrade the regional resource base. Impacts to individual sites can be mitigated to less than significant through application of the proposed mitigation measures.

However, given that no resources are known to exist on the project site, and the proposed project would not result in the loss of cultural resource, the project's contribution to any potential cumulative impact would be less than significant. Future projects would be required to implement similar mitigation measures, therefore reducing the potential for both site specific and cumulative impacts to cultural resources.

### ***Mitigation Measures***

Implementation of **Mitigation Measures 3.4-1, 3.4-2, and 3.4-3** at the project level.

### ***Residual Impacts***

With implementation of the proposed mitigation measures, impacts would be less than significant.