

# CHAPTER 11

## Historical & Cultural Resources

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# CEQA Preserves CALIFORNIA'S HISTORY

By Susan Brandt-Hawley and Anthea Hardig

From Native Californian sacred sites to drive-in theaters, California boasts a remarkable array of historic and cultural resources—those sites, buildings, and objects that remain from the rich and varied pasts of this place. Yet California's Craftsman bungalows, folk-art gardens,

from neglect. Many thousands have been lost.

California's framework for addressing the future of its valuable historic resources begins with local ordinances, zoning regulations, and general plan elements that address demolition and provide incentives

California has a State Historical Building Code that applies to historic resource rehabilitation. There is a system of California Historical Landmarks and California Points of Historical Interest. The California Register of Historical Resources includes sites that meet codified criteria (Pub. Resources

**Californians do not want cookie-cutter communities that lack any reflection of their colorful history.**

military bases, agricultural landscapes, 1920's-era schools, roadside architecture, and bridges, to name a few resource types, are at risk in every corner of the state as they have come of age and need rehabilitation to survive.

Communities that preserve their historic resources for adaptive reuse reap great economic benefits and revitalization, as the inherent integrity of historic resources builds a unique and evocative sense of place to which people are naturally drawn to live and work and play. The creative reuse of existing resources also has the advantage of built-in community acceptance, avoiding the opposition-related delays often faced by new construction. However, due to the lack of widespread understanding of the value and at times great profitability of preservation and re-use, many of California's historic resources suffer

for preservation and adaptive reuse projects. The statewide Mills Act allows local jurisdictions to provide tax incentives for rehabilitation. All such local measures vary widely throughout the state. Some cities and counties have extensive historic resource ordinances and plans, and

Code § 5024.1). The California Register objectively defines historic importance based on a site's association with important events and cultural history, its association with the lives of persons important in our past, its distinctive architecture or high artistic values, or its likelihood to yield information important in prehistory or history. The staff of the California Office of Historic Preservation assesses a

property's eligibility for the California Register, and the State Historical Resources Commission makes determinations following public hearing. The California State Historic Preservation

Officer (SHPO) also reviews eligibility for the National Register of Historic Places. The consent of a private property owner is required for listing on the California or National Registers; without such consent, the properties may still be determined to be eligible for listing.



A CEQA lawsuit prevented demolition of the historic Jose Theatre in San Jose. It re-opened as the Improv Comedy Club in November 2002.



some have none. Many have appointed Cultural Heritage Commissions or Landmarks Boards. Some have surveyed their resources and have created an historic register, and some have not. Some of the resource surveys that have been done are out of date; most are incomplete.

CEQA has applied to historic resources from its adoption in 1970, when it was declared to be the policy of the state to “take all action necessary to provide the people of this state with . . . enjoyment of historic environmental qualities” (Pub. Resources Code § 21001 subd.(b)). In 1992, CEQA was amended to make clear that a project that may cause a substantial adverse change in the significance of an historical resource is considered to have a significant effect on the environment (Pub. Resources Code § 21084.1). CEQA Guideline section 15064.5 was adopted in 1998 to implement protections of historic and cultural resources.

CEQA’s application to discretionary projects that may result in the loss of an historic resource is extremely practical. When a project requiring a discretionary permit is proposed by a local or state agency under its own particular regulatory framework, CEQA review determines whether it may impact an historic resource and, if so, whether the impacts may be avoided. No other law requires this. The whole idea behind CEQA—to assess environmental impacts and to identify and adopt feasible alternatives and mitigations that allow achievement of most project objectives while avoiding significant impacts—works particularly well in the field of historic resources protection.

Since many in the building profession are trained to prefer new over old, most are not aware of the potential of viable and profitable adaptive reuse projects. CEQA environmental review provides an objective look at such potential

within a public process, using professional expertise and the State Historic Building Code to fairly consider the feasibility of accomplishing a desired project without losing the historic resource. Use of the federal *Secretary of the Interior’s Standards for Rehabilitation* to adaptively reuse historic buildings can exempt a project from CEQA and also expedite development. Logically, if an historic building has adequate structural integrity, most of the time there is a way to accomplish adaptive reuse that is profitable to the developer and valuable to the people of the community. The examples throughout the state are varied and powerful.

Californians do not want generic, bland, cookie-cutter style communities that lack any reflection of their colorful history. Respecting our built environment that reflects many decades of rich heritage builds strong neighborhoods, increases the quality of life, and improves understanding of our vast ethnic diversity, while maintaining economic vitality. CEQA promotes the adaptive reuse of such properties in a manner that avoids destruction of our historic and cultural heritage when it is feasible to do so.

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*Attorney Susan Brandt-Hawley has represented public interest groups in CEQA matters throughout California for over twenty years. Ms. Brandt-Hawley’s current practice focuses on historic resource issues.*

## Protected by CEQA:



A standard in modern architecture, IBM Building 25 in San Jose was threatened by a proposed box-store development. It was spared after the EIR process demonstrated that the project could be completed without demolition.



CEQA saved the Guerneville Bridge from demolition by Caltrans. Replaced by a larger bridge upriver, it now carries pedestrian rather than vehicular traffic. Built in 1922, the bridge was declared a Federally Protected Historic Structure in 1990.



Cesar Chavez was incarcerated in the Old Monterey Jail for organizing a lettuce boycott that generated worldwide interest in the farmworker movement. The jail’s demolition was averted in 2004.



# SAVING Saint Vibiana's Cathedral:

## CEQA & the Preservation of LA's Historic Downtown

By Jack H. Rubens

Early Saturday morning on June 1, 1996, the Roman Catholic Archdiocese of Los Angeles attempted to demolish the Cathedral of St. Vibiana, which was constructed in 1876 and is the oldest and perhaps most significant structure in the historic core of downtown Los Angeles. The Los Angeles Conservancy, a local historic preservation group, came to the rescue. With a wrecking ball poised a few feet from the cathedral, the demolition was stopped after the Conservancy determined that the Archdiocese didn't have a demolition permit. But the City stated its intent to issue that permit on Sunday morning with no prior environmental review under CEQA. Later that afternoon, however, the Conservancy's attorneys persuaded a superior court judge to issue a telephonic restraining order.

Two days later, the Conservancy filed its lawsuit and obtained a temporary restraining order. The Archdiocese and the City of Los Angeles contended that CEQA review was not required based on the statutory "emergency" exemption. The court rejected this argument because the damage to the cathedral had been caused by the

Northridge earthquake in January 1994, almost two and a half years before the attempted demolition, so that the damage was not based on a "sudden, unexpected occurrence"



St. Vibiana's Cathedral (above) was narrowly saved from demolition by CEQA. The former cathedral will be adaptively reused as a performing arts venue.

that would justify application of the emergency exemption. Two weeks later, the Conservancy obtained a preliminary injunction after its structural engineer determined that

**With a wrecking ball poised a few feet from the cathedral, the demolition was stopped after the Conservancy determined that the Archdiocese didn't have a permit. But the City stated its intent to issue that permit the following morning with no prior environmental review under CEQA.**

the landmark had not suffered any material structural damage.

The City then attempted to circumvent CEQA by revoking the cathedral's designation as a local historic landmark, hoping this would convert the issuance of the demoli-

tion permit from a discretionary action, which triggers CEQA review, to a ministerial action, which is exempt from CEQA review. The Conservancy filed a second lawsuit and obtained another preliminary injunction based on the City's failure to prepare an Environmental Impact Report to address the stated purpose of the de-listing—the demolition of the cathedral.

Subsequently, the Archdiocese elected to develop a new cathedral complex at another downtown location and sold the property to Tom Gilmore, a preservation

developer. A new branch library for Little Tokyo has already been constructed on the site, and the seismic retrofit of the cathedral structures are underway. It is

anticipated that the former cathedral will be adaptively reused as a performing arts venue, while a boutique hotel is planned for the adjacent rectory. The preservation and rehabilitation of

this historic landmark will serve as a catalyst for the redevelopment of the downtown historic core.

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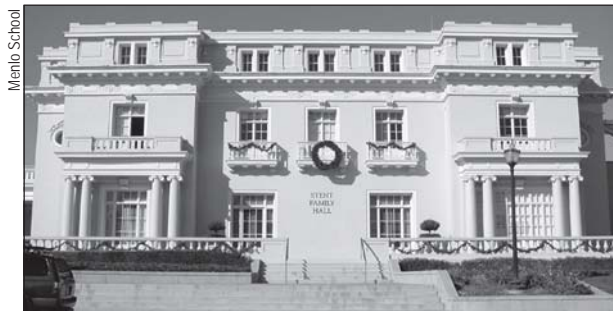
# Fit for Retrofit: Inventor's Historic Mansion Protected

By Susan Brandt-Hawley

In the heart of the campus at Menlo School in Atherton is a lovely mansion built in 1913 in nineteenth century Italian design. In 1921, the house was sold to Leon F. Douglass, a creative genius who invented many electronic and phonographic items, including the coin-operated phonograph, motion picture cameras and devices, the first process for producing color movies, and the first flint cigarette lighter. Convalescing soldiers occupied Douglass Hall during World War II. In 1945, the estate was sold to the Menlo School and became the centerpiece of the campus. The building is formally recognized for its historic architectural significance and its association with Leon Douglass.

Douglass Hall sustained some damage in the 1989 Loma Prieta earthquake, but continued to be used by Menlo School for two years. In 1991, the School vacated the building and asked the Town of Atherton to allow its demolition "due to seismic damage and obsolescence." The School proposed two replacement buildings to be used for campus administration and classrooms. The demolition was opposed by many, including state officials, local preservation groups, a number of public commissions, and also the heirs of Leon Douglass. A group of concerned local residents formed to advocate against the demolition, calling itself Friends of Douglass Hall.

The Town of Atherton prepared an Environmental Impact Report (EIR) to address the impacts of the demolition project and the feasibility of alternatives. The EIR recognized that the building reflects "the work of a master" and possesses "high artistic values." However, while



Because of CEQA, Douglass Hall is once again a well-used and well-loved centerpiece of the Menlo School campus.

recommending rehabilitation of Douglass Hall rather than its demolition, the EIR consultants did not prepare a cost analysis of any restoration options, but relied on an estimate for seismic upgrade and renovation costs that had been prepared by a contracting firm without expertise in historic resources, and which was partly owned by a Trustee of the School who was an advocate of the demolition.

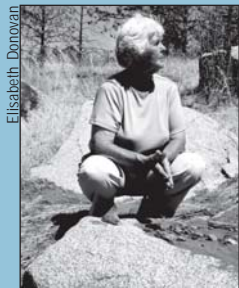
The Town Planning Commission recommended denial of the demolition, but the Town Council approved it. The Friends of Douglass Hall then filed an action in the San Mateo County Superior Court to require the Town to comply with CEQA because the EIR had not fairly considered feasible alternatives to demolition when it relied on

the rehabilitation alternative prepared by the Trustee's contracting firm. The Court issued an injunction to stop the demolition and ultimately issued a ruling in favor of the Friends. The Court held that the EIR must consider "restoration alternatives...short of destruction,"

using cost-saving provisions of the State Historic Building Code since there was no evidence that Douglass Hall would not feasibly support the School's educational mission.

The School Trustees, who had been very committed to demolition and to their proposed new building project, initially declared that despite the Court's ruling and the mandates of CEQA they would never rehabilitate Douglass Hall and would just let it sit. However, after a bit of time passed they reconsidered and proceeded to do a magnificent restoration of the building. They have renamed it Stent Family Hall and it is once again a well-used and well-loved centerpiece of the Menlo School campus. Without the use of CEQA, this remarkable resource would have unquestionably been lost forever.

*Attorney Susan Brandt-Hawley has represented public interest groups in CEQA matters throughout California for over twenty years. Ms. Brandt-Hawley's current practice focuses on historic resource issues.*



## Saving the Little Valley

By Carmen Lucas

My whole life I have driven by the Lucky 5 Ranch to get to and from our mountain homeland. As a kid, I wondered about that land, the former reservation of my ancestors, the Kwaaymii Laguna Band of Mission Indians.

In 2001, State Parks acquired the Lucky 5 Ranch. I was contacted by the Park's archaeologist to visit the southern parcel. I was excited to finally walk on this land.

I was amazed by the amount and density of traditional plant resources there, including chokecherry (which was eaten), oaks (acorns were a food source), penstemon (which was smoked), and sumac (important for basket making). With all these resources concentrated in this area, it must have been an important resource gathering place for my ancestors.

I also saw visible cultural resources: rock rings, milling sites near a natural spring, midden soil areas (indicating former living places), pottery shards and manos, and

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# CEQA PROTECTS TRIBAL HERITAGE RESOURCES

By Courtney Ann Coyle

In 2001, State Parks Colorado Desert District acquired portions of the extensive Lucky 5 Ranch in San Diego County as a link between Cuyamaca Rancho and Anza Borrego State Parks. One of the old Ranch's parcels contains a little scenic valley studded with stands of oaks, boulder outcroppings, meadows and a natural spring.



The CEQA process ensured that the beautiful Little Valley would be preserved for its tribal heritage.

State Parks intended to turn this little valley into a permanent horse camp with twelve to fourteen equestrian campsites, including: a group campsite, parking areas, vault toilets, a new well and water conveyance system, trails and a manure collection area.

In 2002, State Parks prepared a Mitigated Negative Declaration (MND) for the project. They contacted the state Native American Heritage Commission, but the Sacred Lands file did not show listed properties. A letter went out to potentially interested tribal entities. A response was received by Parks, informing them that this was an area of tribal interest and

that there were concerns regarding the proposed use. The survey done by their archaeologist agreed that there was potential for significant impacts to cultural resources.

Consultation with knowledgeable local Indians revealed that the valley was an important cultural site. In addition to holding visible cultural material, it had considerable intangible values: it possessed an integrity of setting, was a gathering area for traditional plant materials, and was linked to other nearby previously unrecorded cultural sites that made the valley important to living tribal peoples. Alternative locations existed for the proposed horse camp. State Parks' resources staff recommended that the valley be considered a traditional cultural property.

Based on public comment, State Parks issued a recirculated MND in September 2003 which made some project changes. The revised document, however, still recommended the proposed site but with added mitigation measures.

In October 2003, the worst firestorm in recent memory to hit California burned through the valley, revealing cultural material that was not observed during the prior surveys. It became increasingly clear that building a recreational horse camp was not compatible with preserving the cultural and tribal values of the site.



The District Superintendent walked the site with the Indian informant and his resource staff to get a firsthand understanding of the cultural resources at issue. In December 2004, the Indian informant was officially notified that the

with local or tribal entities must be conducted in a timely manner.

Posting a notice in the newspaper, sending a letter or checking the sacred or historic lands files for recorded properties is not enough.

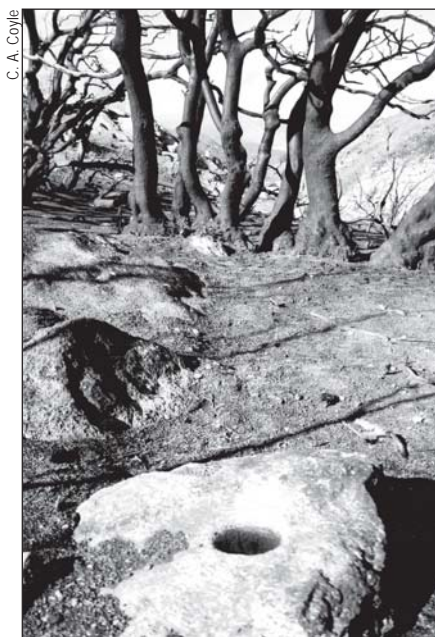
**Though the CEQA process was not always familiar or comfortable, the tribal consultant's involvement ensured that the voices of the land and of the old ones were heard, and that the valley would be preserved, so their story would be told.**

property was no longer being proposed for the campground. CEQA's purpose had been achieved. The tribal consultation process had worked. The Little Valley and its history were saved.

The foundation of CEQA rests upon informed decision making. But to be informed, decision makers must demand that facts and opinions be sought out. Where there is any indication in the physical records or oral histories of cultural resources, meaningful consultation

Direct contact is essential to fulfilling the objective of CEQA: to ensure we do not adversely impact environmental or cultural resources where avoidable.

After rains and the passage of some time, many oaks have sprouted their leaves. Green has returned to the once burned valley, blanketing the temporarily visible cultural resources so that they may again rest in peace. The tribal informant could also rest at ease. She knew that she had honored her ancestors by taking action. Though the CEQA process was not always familiar or comfortable to her, her involvement ensured that the voices of the land and of the old ones were heard, and that the valley would be preserved, so their story would be told—again and again and again.



A grinding stone located within the boundaries of the Lucky 5 Ranch acquisition. This is just one example of the region's many cultural resources.

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metates (rock tools for preparing food). Developing the site would endanger the plants and cultural resources.

Through the CEQA process, we read documents, wrote letters, and had many phone calls. But the most important activities were the walks of the site. Both before and after the fire, these site visits helped the decision-makers and their staffs see through my eyes why the little valley was worth preserving as it is. The cultural materials are ancient and nonrenewable. Once these places are harmed, most lose their essence forever—the intangible feeling of the old ones.

I was told that it would be a waste of time to get involved. But that wasn't true. If people have connections to a place, they should participate mentally, emotionally, and financially. My other advice is to find a good attorney—one who'll crawl around in the brush with you!

That is why the success story of the preservation of the Little Valley is so important to tell. Through our efforts, our history can be preserved.

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