



Attachment 3




PASADENA 
City Attorney's Office

California Environmental Quality Act:

Workshop for Council


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Overview

- **Primer on the law in general, not on the application of CEQA to any particular project.**
- **Focus of discussion will be on environmental impact reports.**
- **Numerical references are to the State CEQA Guidelines (14 Cal. Code Regs.).**


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Process: General

- **The City is required by law to prepare and certify a legally adequate EIR. (15084)**
- **Certification of any CEQA document does not constitute a land use entitlement.**
 - > **BUT environmental review must always come before project approval. (15092)**
 - > **EIR sets the "envelope" for development, but does not dictate a particular project.**


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Process: First Steps

- The decision whether to prepare an EIR begins with a three-step process. (15002(k))
 - > Is the project subject to CEQA? (If exempt, file Notice of Exemption.)
 - > Prepare an Initial Study to determine whether the project may have a "significant effect on the environment." If not, prepare a negative declaration or mitigated negative declaration.
 - > Prepare an EIR.

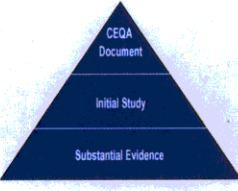
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Process: First Steps

Initial Study must be based on facts, technical studies and other substantial evidence. (15063)

- Public controversy does not trigger an EIR. (15064(f)(4))
- Social or economic effects do not trigger an EIR (unless the social/economic effect will cause a potentially significant environmental effect). (15064(e), 15131, 15382)




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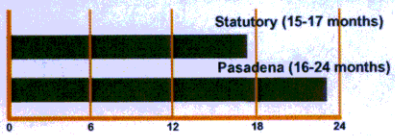
Process: Timeline

- It generally takes 12+ months to release a Draft EIR for public comment.
- Required 45-day circulation period for public comment.
 - > 60 days++ is the norm in Pasadena
- Required written responses to comments prior to certification.
 - > Time is added by City-imposed process of taking DEIR to commissions

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Process: Timeline



Statutory (15-17 months)
Pasadena (16-24 months)

RESULT: generally, close to 2 years to Final EIR certification in Pasadena


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No More Process!

- No set "shelf life" of an EIR.
- CEQA prohibits repeated environmental review of the same project unless:
 - > Substantial changes proposed to the project;
 - > Changed circumstances;
 - > New information of new significant effects or more severe significant effects. (15162-15164)


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Topics of Interest

- Thresholds of Significance
- Baseline
- Cumulative Impacts
- Alternatives
- Land Use
- Findings
- Statement of Overriding Consideration (SOC)


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Thresholds of Significance

- **Fundamental question:**
 - > Is there "substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment . . ." (15063)
- **City sets thresholds of significance against which impacts are measured.**


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Thresholds of Significance

- **Thresholds can be changed at any time, from that point forward.**
- **Thresholds cannot be changed on a project-by-project basis.**
- **Thresholds must be developed through a public review process and supported by substantial evidence. (15064.7)**

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Baseline

- **EIR must describe the environmental setting to establish the baseline used to determine whether impacts are significant. (15125)**
 - > Usually the time the Notice of Preparation is sent out.
 - > Can be a different time if more appropriate to better evaluate project impacts (traffic, for example).

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Baseline



• IMPORTANT POINT:

- > When the General Plan EIR is prepared, it will compare development contemplated in the updated General Plan against existing baseline conditions, and not against potential build-out under the current General Plan.

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Cumulative Impacts



- **Question: Is the project's incremental effect significant when viewed in connection with the effects of other past, present, probable future projects. (15130)**

- > List of projects method
- > Summary of projections method

- **Recent updates to City maintenance of list:**

- > Project placed on list upon submission of application and taken off at issuance of Certificate of Occupancy.

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Alternatives



- **EIR must identify a reasonable range of alternatives that would:**

- > Feasibly attain most of the basic project objectives, and
- > Would avoid or substantially lessen any significant effects of the project. (15126.6)

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Alternatives



- **"Rule of reason"**
 - > Not multiple variations on alternatives
 - > Not alternatives to components of project
 - > Not alternative versions of alternatives
- **If further alternatives analysis is desired to address land use issues, that can be done in a land use document.**

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Land Use Issues



- **In general, an EIR is not the best place for a robust discussion of land use issues that do not have potentially significant environmental effects.**
 - > See IS checklist questions for guidance on what may constitute a potentially significant effect.

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Land Use Issues



- **Generally, consistency with GP, SP, zoning is a less than significant environmental impact.**
 - > Exemptions for housing and infill (15192)
 - > Streamlining of subsequent review if project is consistent with zoning, planning (PRC § 21083.3)

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Findings

- CEQA's findings for adequacy of an EIR are no substitute for and are very different from land use findings.
- Compare the emphasized language of the findings in the following chart.

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Findings


CEQA (15091)

1. Changes or alterations required in/incorporated into project which avoid or substantially lessen significant effects.
2. . . .
3. Specific economic, legal, social, technological, or other considerations . . . make infeasible the mitigation measures or project alternatives identified in the final EIR.

Variance (PMC 17.61.080.G)

- Exceptional/extraordinary circumstances or conditions applicable to the site different from sites in same zoning district;
- Granting application necessary for preservation/enjoyment of substantial property right and to prevent unreasonable property loss/unnecessary hardship;
- Granting application not detrimental/injurious to property or vicinity, or to public health, safety, or general welfare;
- Granting application is in conformance with goals, policies, and objectives of General Plan, and purpose/intent of any applicable specific plan and Zoning Code, and not a grant of special privilege inconsistent with properties in vicinity and same zone district.

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SOC

- A Statement of Overriding Considerations is also different from land use findings.
 - Balance economic, legal, social, technological or other benefits against unavoidable adverse environmental effect. (15093)

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Discussion?

- **Separate CEQA certification from project approval?**
- **Other questions?**
- **An invitation: CEQA seminars this summer.**

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