

A stylized illustration of a purple dragon with black horns and wings, standing on a stone wall. The dragon has a yellow mouth and glowing green eyes. The background is a solid dark grey.

CEQA: Basics

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Presentation Overview

What's the point?

It all starts with a discretionary project

CEQA Evaluates Change

Deciding on level of review

Exemptions & Addendums

Negative or Mitigated Negative Declarations

Environmental Impact Reports

Baseline & Thresholds

Mitigation

Evidence & Findings



Hold on, this will be a lot of information...but we'll leave the PPT.

What's the point?

Probable and/or Possible

Informs you of the environmental effects of the project
To solve a project's environmental impacts if possible; or,
To allow your consideration even if it isn't





It all starts with a *discretionary* project...

- ▶ A project means the *whole of the action*, which has the potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment.



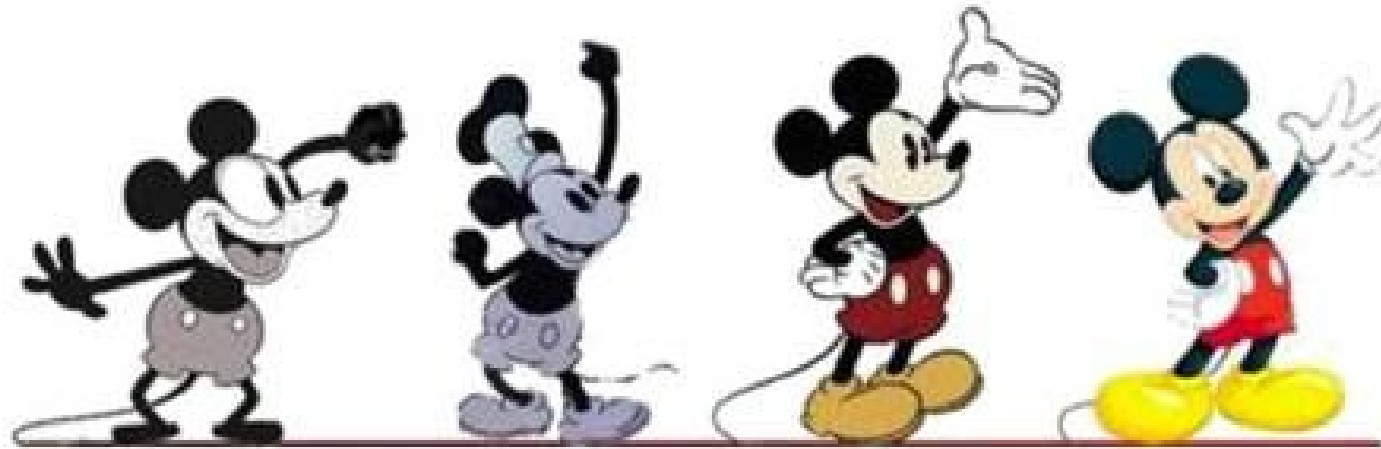
Development by Right – No Discretion!

CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.

Dr. Fate, Marvel Comics



CEQA Evaluates Change



Change from existing condition
(not the plan...mostly)

Short- and long-term impacts

Direct and indirect changes

Cumulative changes (includes
other projects)

Local and regional plans

Specific Plans / Form Based Zoning

Once we have a project, then...

We must determine the level of environmental review.

Four basic outcomes:

- Exempt
- Addendum
- Negative Declaration or Mitigated Negative Declaration
- Environmental Impact Report





Exemptions

- Statutory:** Items ruled by the legislature to be exempt from CEQA. (15260–15285) and other places in the state statutes such as GOVT 15183.
- Categorical:** Items in the state or local agency guidelines that are considered to have little or no environmental impact in most instances. (15300–15332)
- General:** A determination that the project will not result in direct or reasonably foreseeable indirect physical change in the environment. This is known as the *common sense* exemption. (15060(c))



Addendum

Allows use of a previously certified environmental documents.

Takes on the level of challenge of the original document.

Applicable for 'minor' changes that are still within the context of the original project.

Does not need public review or comments (but can have them)

Negative or Mitigated Negative Declaration

The difference is whether mitigation is required

Based on a checklist (See Appendix G of the Guidelines)

Conclusions based on fact in the record

Circulated for 30 Days

No requirement to respond to public comments, but to consider them before action

Considered “draft” until adopted



Environmental Impact Report (EIR)

Several different types

Most follow the same basic format

Gold standard of environmental review

Circulated for 30-days and then 45-days

All comments from the 45-day period must have a reasoned response

Considered “draft” until certified





Streamlining

Predicting the future – then analyzing it in the CEQA document

Allows for “what-if” types of mitigation

Focus on future process

If successful allows for ministerial or Addendum approval of future projects

Nothing new in CEQA, intent from the beginning

Future project evaluation is based on the quality of the original document...not the age!



Fair Argument Standard

When must an EIR be prepared? – *When it can be fairly argued, based on substantial evidence, in light of the whole record, that a project may have a significant environmental effect.*

- This is purposely a low threshold for requiring EIRs
- “Fairly argued” means that there is evidence of the potential for impact in the administrative record before the agency
- Impacts = direct, indirect, and cumulative contribution impacts
- “May have” means that the evidence need not be absolute or unequivocal



Substantial Evidence

15384. SUBSTANTIAL EVIDENCE

(a) “Substantial evidence” as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. *Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.*

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.



What is substantial evidence?

- ▶ What it is:
 - ▶ Facts
 - ▶ Reasonable assumption predicated on facts
 - ▶ Expert opinion supported by facts
- ▶ What it isn't:
 - ▶ Argument
 - ▶ Speculation
 - ▶ Unsubstantiated opinion or narrative
 - ▶ Clearly inaccurate or erroneous information
 - ▶ Socioeconomic impact not linked to physical environmental impact



Types of CEQA Documents

Substantial Evidence

Exemptions

- Statutory
- Categorical

Environmental Impact Reports

- Subsequent
- Supplement
- Master
- Program
- Project

Addendum to EIR

Fair Argument

Negative Declarations

- Negative Declaration (No Mitigation Measures)
- Mitigated Negative Declaration

Addendum to Negative Declaration






BASELINE

[A] baseline is simply a measure of some situation before it changes. There is no “true,” “normal,” or “natural” baseline. You decide what you want to measure, and then you select a baseline appropriate to your goal. What one wants to measure is a policy question, as is the choice of a baseline.



Threshold of Significance

-  A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect.
-  Noncompliance means the effect will normally be determined to be significant by the agency.
-  Compliance means the effect normally will be determined to be less than significant.

Found in:

CEQA Guidelines

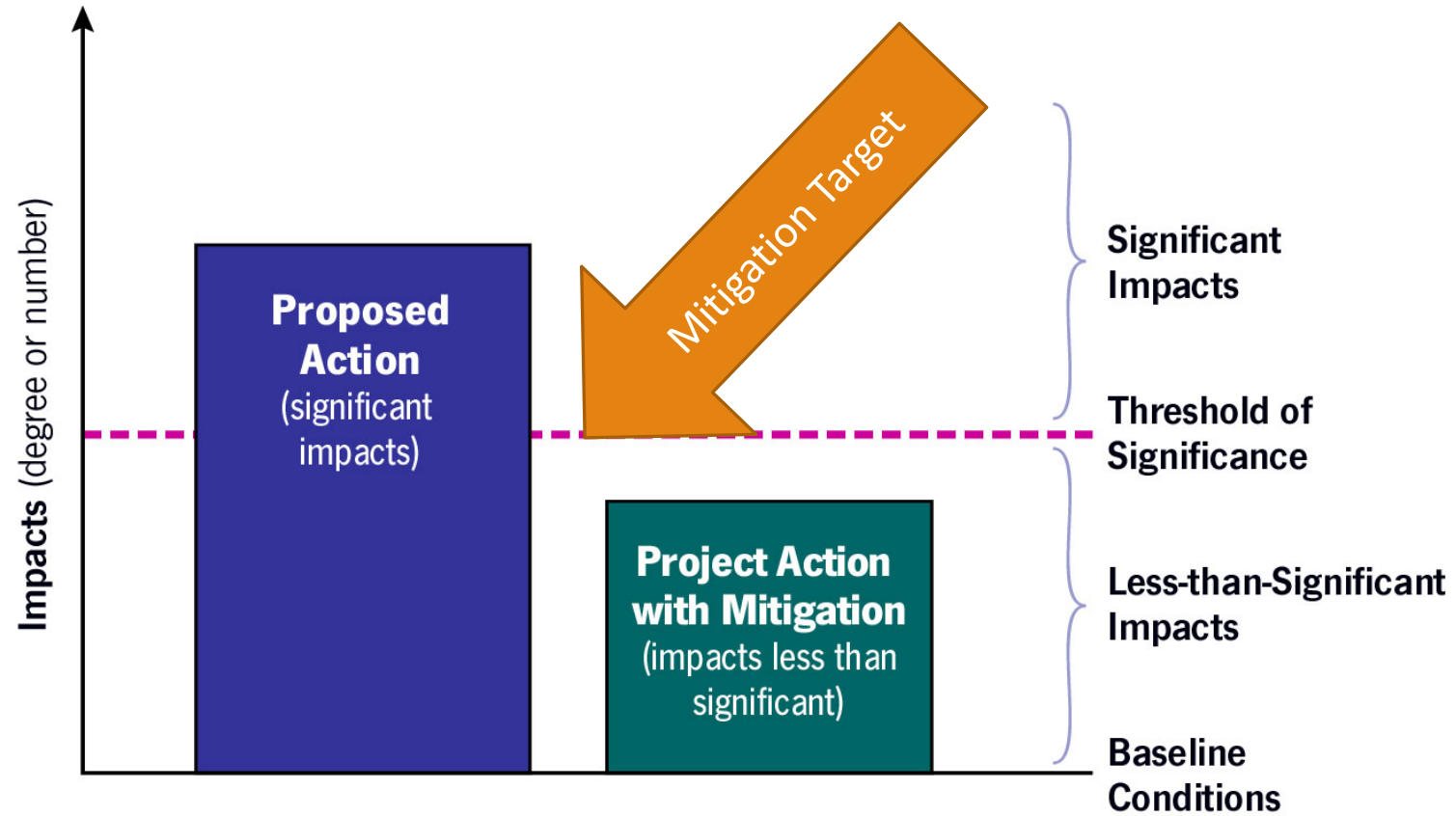
General Plan

Municipal Code

Adopted Development Standards

Regulatory Agency Standards

Understanding Thresholds





Context is Everything

Every community has different standards

Comparing agencies is difficult

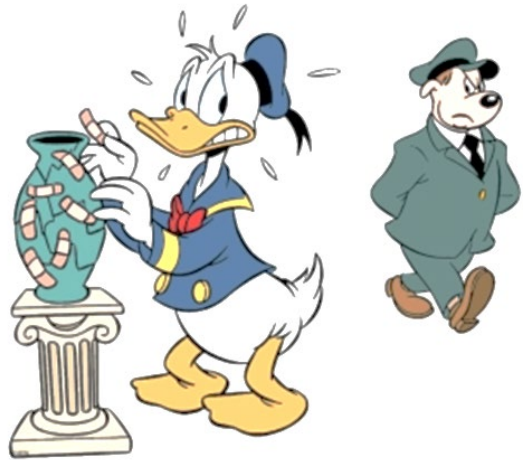
Not all large projects have impacts

Not all small projects don't

How do we know?

“That’s no moon...that’s a space station”

What Is a Mitigation Measure?



Avoid	Avoid the impact altogether by not taking certain action or parts of an action
Minimize	Minimize impacts by limiting the degree or magnitude of the action and its implementation
Rectify	Rectify the impact by repairing, rehabilitating, or restoring the affected environment
Reduce or Eliminate	Reduce or eliminate the impact over time through preservation and maintenance during the life of the action
Compensate	Compensate for the impact by replacing or providing substitute resources or environments



Public Circulation & Comment

Required	Not Required
Negative Declaration	Exemption
Mitigated Negative Declaration	Addendum
Environmental Impact Report	

- Still requires discussion during any public hearing
- Anticipated action on the agenda
- Requires filing of notice of determination





Public Comments

The public process is a good part of CEQA

Embrace the passion of the community

Not all in favor show up...and not all who oppose comment

Beware hurrying up at the very end

Late hits and document dumps are part of the process

Let staff guide you, delaying a meeting is not the end of the world (no matter what the applicant says)



Final EIR, Findings, MMRP


Final EIR (FEIR)

- Reasoned response to *all* comments received during the public review period
- Changes to the Draft EIR as a result of public comments
- Additional information
- Errata to the Draft EIR

Findings

- Reasoned answer for every impact
- Includes statement of overriding considerations
- Can include evidence from the hearings that was not in the EIR

Mitigation Monitoring and Reporting Program (MMRP)

- Checklist to ensure all mitigation measures are implemented
 - Also includes project design features
 - Adopted for each project approved under that environmental document
 - Part of the project approval process and not the EIR
- 



It's done by the time I get it, what can I do?

CEQA is not done until the project is approved

You are the last set of eyes before the decision is made

Give staff a heads up if you have a question and give them time to respond

Add your reasoning to the record





EIR Myths

The EIR will stop the project.

The EIR will tell me how to vote on the project.

The EIR will be more expensive than a mitigated negative declaration.

The EIR will take longer and than a mitigated negative declaration.

The EIR will be more thorough than a ND/MND.

The EIR will be bulletproof.



That's it...

CEQA evaluates how the project changes environment

The evaluation is circulated for public review

If the change is above an adopted threshold then an agency must take action to:

- Adopt measures (mitigation) to reduce the impact below the threshold; or,
- Make findings of overriding consideration to approve the project anyway

The agency must consider the changes as reported in the analysis before taking action



Oh, I just love
happy endings.



Resources for More Information

Wikipedia

https://en.wikipedia.org/wiki/California_Environmental_Quality_Act

Office of Planning and Research

<https://opr.ca.gov/ceqa/>

CEQA Portal – Court Cases and Topic Papers

<https://ceqaportal.org/>

Planning Commissioner's Handbook

<https://www.ilgplanninghandbook.org/>



Shameless Plug for CEQA: Advanced (In the Weeds)
Wednesday, March 30, 2023 | 10:30 – 11:45

Questions?

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