

CEQA for ▶ Design Review

Committee Training

Based on 4/9/2020 by Tim Fox, County Attorney's Office

CEQA - The California Environmental Quality Act

- ▶ Requires local governments to consider the potential environmental effects of a project before approving it
- ▶ Staff will determine and prepare the type of environmental document that is required for the project based on County policy and practice, in consultation with other Departments and County Counsel
 - ▶ CEQA establishes Exemption Classes for certain types of Projects.
 - ▶ Notice of Exemption
 - ▶ All projects that do not qualify for an exemption, require an Initial Study.
 - ▶ IS/ND or IS/MND
 - ▶ EIR

CEQA Review Process

1. Staff receives application and determines the appropriate discretionary permits
2. Staff determines whether project qualifies for exemption
3. Staff determines an Initial Study is needed to analyze the environmental impacts of the project
 1. Standard checklist of common environmental impacts and areas of environmental concern
 2. Staff evaluates whether any answers to the checklist questions raise a “fair argument” about the existence of a significant impact to the environment that may be caused by the project
4. Staff prepares either a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report, and shares it with the public according to an established process
5. A staff report with recommendation for action on the environmental document is brought to the decisionmaker for action

Role of CDRC in Approving the Environmental Document

- ▶ **Recommendations on the DR Permit** before the CDRC do not require the CDRC to take action on an environmental document
 - ▶ Recommendations Only: CDRC isn't the decisionmaker with the authority to impose the conditions necessary to mitigate environmental effects
 - ▶ May be because the environmental document is tied to another necessary permit
- ▶ **For Most of the CDRC's Decisions, a finding of exemption is needed.**
 - ▶ Project is exempt from CEQA
- ▶ **For Some of the CDRC's Decisions, an adoption of an IS/MND or IS/ND is needed.**
 - ▶ Projects that are not exempt from CEQA. Examples: Location in Seal Cove; riparian area.

Levels of Environmental Review

CEQA EXEMPTIONS:

- ▶ “Not a project”
- ▶ Statutory exemptions from CEQA
 - ▶ Essentially, types of projects deemed by the state legislature to be so important as to bypass typical environmental review for various reasons
 - ▶ Example: [Building permit applications](#)
- ▶ Categorical exemptions from CEQA
 - ▶ Essentially, types of projects understood not to cause (in the ordinary case) environmental impacts not otherwise planned for and mitigated
 - ▶ [Applies to most Planning permits](#)

Exemptions

- ▶ Many minor projects, such as single-family homes, remodeling, and accessory structures are exempt from the CEQA requirements. Exempt projects receive no environmental review
- ▶ State guidelines establish Classes of Exemption

Most Common Exemption Classes for DR Projects:

- ▶ [Section 15301 - Existing Facilities](#)
- ▶ [Section 15302 - Replacement or Reconstruction](#)
- ▶ [Section 15303 - New Construction or Conversion of Small Structures](#)

- ▶ Required Finding (Class 1 Example):
- ▶ *This project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), Guidelines [Section 15303, Class 1](#), relating to additions to existing structures provided that the addition will not result in an increase of more than 10,000 sq. ft. if: (a) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and (b) The area in which the project is located is not environmentally sensitive. All public services are available and parcel is not in an environmentally sensitive area.*

Findings for IS/ND and IS/MND

- ▶ When the Initial Study finds that the project will have a significant impact to the environment, it is incumbent upon staff to propose how the project could incorporate elements that will reduce that impact below significant levels
- ▶ CEQA Required Findings for adoption of an IS/ND or IS/MND:
 - ▶ *(b) The decision-making body shall adopt the proposed negative declaration or mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration or mitigated negative declaration reflects the lead agency's independent judgment and analysis.*
 - ▶ *(c) When adopting a negative declaration or mitigated negative declaration, the lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.*
 - ▶ *(d) When adopting a mitigated negative declaration, the lead agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to mitigate or avoid significant environmental effects.*
 - ▶ *(e) A lead agency shall not adopt a negative declaration or mitigated negative declaration for a project within the boundaries of a comprehensive airport land use plan or, if a comprehensive airport land use plan has not been adopted, for a project within two nautical miles of a public airport or public use airport, without first considering whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.*
- ▶ Staff provides written draft findings for the decision maker (Planning Commission, CDRC, etc).