



**TOWN OF LOS GATOS
PLANNING COMMISSION AGENDA
JUNE 23, 2021
110 EAST MAIN STREET
LOS GATOS, CA**

*Kathryn Janoff, Chair
Kendra Burch, Vice Chair
Jeffrey Barnett, Commissioner
Melanie Hanssen, Commissioner
Jeffrey Suzuki, Commissioner
Reza Tavana, Commissioner
Emily Thomas, Commissioner*

PARTICIPATION IN THE PUBLIC PROCESS

How to participate: The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please follow the participation instructions on page 2 of this agenda. If you wish to speak to an item NOT on the agenda, you may do so during the “Verbal Communications” period, by following the participation instructions on page 2 of this agenda. The time allocated to speakers may change to better facilitate the Planning Commission meeting.

Effective Proceedings: The purpose of the Planning Commission meeting is to conduct the business of the community in an effective and efficient manner. For the benefit of the community, the Town of Los Gatos asks that you follow the Town’s meeting guidelines while attending Planning Commission meetings and treat everyone with respect and dignity. This is done by following meeting guidelines set forth in State law and in the Town Code. Disruptive conduct is not tolerated, including but not limited to: addressing the Commissioners without first being recognized; interrupting speakers, Commissioners or Town staff; continuing to speak after the allotted time has expired; failing to relinquish the podium when directed to do so; and repetitiously addressing the same subject.

Deadlines for Public Comment and Presentations are as follows:

- Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email, to the Planning Department by 1 p.m. or the Clerk’s Office no later than 3:00 p.m. on the day of the Planning Commission meeting.
- Persons wishing to submit written comments to be included in the materials provided to the Planning Commission must provide the comments to the Planning Department as follows:
 - For inclusion in the regular packet: by 11:00 a.m. the Friday before the meeting
 - For inclusion in any Addendum: by 11:00 a.m. the day before the meeting
 - For inclusion in any Desk Item: by 11:00 a.m. on the day of the meeting

Planning Commission meetings are broadcast Live on KCAT, Channel 15 (on Comcast) on the 2nd and 4th Wednesdays at 7:00 p.m.
Live and Archived Planning Commission meetings can be viewed by going to:
<https://www.kcat.org/government-meetings>

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]

IMPORTANT NOTICE REGARDING PLANNING COMMISSION MEETING

This meeting is being conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic. The live stream of the meeting may be viewed on television and/or online at: <https://meetings.municode.com/PublishPage/index?cid=LOSGATOS&ppid=4bc370fb-3064-458e-a11a-78e0c0e5d161&p=0>. **In accordance with Executive Order N-29-20, the public may only view the meeting on television and/or online and not in the Council Chamber.**

PARTICIPATION

If you are not interested in providing oral comments real-time during the meeting, you can view the live stream of the meeting on television (Comcast Channel 15) and/or online at <https://www.youtube.com/channel/UCFh35XRBWer1DPx-F7vvhcg>.

If you are interested in providing oral comments in real-time during the meeting, you must join the Zoom webinar at:
<https://losatosca.gov.zoom.us/j/89252267844?pwd=OGxoZUxNbWREUkdkWldqK0gzQWtUZz09>
Passcode: 704729.

Please be sure you have the most up-to-date version of the Zoom application should you choose to provide public comment during the meeting. Note that participants cannot turn their cameras on during the entire duration of the meeting.

During the meeting:

- When the Chair announces the item for which you wish to speak, click the “raise hand” feature in Zoom. If you are participating by phone on the Zoom app, press *9 on your telephone keypad to raise your hand. If you are participating by calling in, press #2 on your telephone keypad to raise your hand.
- When called to speak, please limit your comments to three (3) minutes, or such other time as the Chair may decide, consistent with the time limit for speakers at a Council meeting.

If you are unable to participate in real-time, you may send an email to PlanningComment@losatosca.gov with the subject line “Public Comment Item # ” (insert the item number relevant to your comment) or “Verbal Communications – Non Agenda Item.” Comments will be reviewed and distributed before the meeting if received by 11:00 a.m. on the day of the meeting. All comments received will become part of the record. The Chair has the option to modify this action on items based on comments received.

REMOTE LOCATION PARTICIPANTS

The following Planning Commissioners are listed to permit them to appear electronically or telephonically at the Planning Commission meeting: CHAIR KATHRYN JANOFF, VICE CHAIR BURCH, COMMISSIONER BARNETT, COMMISSIONER HANSSEN, COMMISSIONER SUZUKI, COMMISSIONER TAVANA, AND COMMISSIONER THOMAS. All votes during the teleconferencing session will be conducted by roll call vote.

**TOWN OF LOS GATOS
PLANNING COMMISSION AGENDA
JUNE 23, 2021
7:00 PM**

MEETING CALLED TO ORDER

ROLL CALL

VERBAL COMMUNICATIONS *(Members of the public may address the Commission on any matter that is not listed on the agenda. Unless additional time is authorized by the Commission, remarks shall be limited to three minutes.)*

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION) *(Before the Planning Commission acts on the consent agenda, any member of the public or Commission may request that any item be removed from the consent agenda. At the Chair's discretion, items removed from the consent calendar may be considered either before or after the Public Hearings portion of the agenda)*

1. Draft Minutes of the June 9, 2021 Planning Commission Meeting
2. Continue to August 11, 2021
Consider the adoption of amendments to Chapter 29, Article I, Division 2, (Zoning Regulations – Tree Protection) of the Town Code. It has been determined that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act [Section 15061 (b)(3)]. APPLICANT: Town of Los Gatos.

PUBLIC HEARINGS *(Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for opening statements. Members of the public may be allotted up to three minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of three minutes maximum for closing statements. Items requested/recommended for continuance are subject to the Commission's consent at the meeting.)*

3. Provide the Public with an Opportunity to Give Verbal Comments on the Draft Environmental Impact Report (DEIR) for a Request for a Planned Development for a Senior Living Community on Property Zoned R:PD. **Located at 110 Wood Road.** APN 510-47-038. **No action will be taken at this meeting.** Property Owner: Covia Communities. Applicant: Rockwood Pacific. Project Planner: Sean Mullin.

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

4. Review and Discuss the California Environmental Quality Act PowerPoint.

REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT

SUBCOMMITTEE REPORTS / COMMISSION MATTERS

ADJOURNMENT *(Planning Commission policy is to adjourn no later than 11:30 p.m. unless a majority of the Planning Commission votes for an extension of time)*

Writings related to an item on the Planning Commission meeting agenda distributed to members of the Commission within 72 hours of the meeting are available for public inspection at the reference desk of the Los Gatos Town Library, located at 100 Villa Avenue; the Community Development Department and Clerk Department, both located at 110 E. Main Street; and are also available for review on the official Town of Los Gatos website. Copies of desk items distributed to members of the Commission at the meeting are available for review in the Town Council Chambers.

Note: The Town of Los Gatos has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a decision of the Town Council must be brought within 90 days after the decision is announced unless a shorter time is required by State or Federal law.



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 06/23/2021

ITEM NO: 1

**DRAFT
MINUTES OF THE PLANNING COMMISSION MEETING
JUNE 9, 2021**

The Planning Commission of the Town of Los Gatos conducted a Regular Meeting on Wednesday, June 9, 2021, at 7:00 p.m.

This meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID19 pandemic and was conducted via Zoom. All planning commissioners and staff participated from remote locations and all voting was conducted via roll call vote.

MEETING CALLED TO ORDER AT 7:00 PM

ROLL CALL

Present: Chair Kathryn Janoff, Vice Chair Kendra Burch, Commissioner Jeffrey Barnett, Commissioner Melanie Hanssen, Commissioner Jeffrey Suzuki, Commissioner Reza Tavana, and Commissioner Emily Thomas

Absent: None.

VERBAL COMMUNICATIONS

None.

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)

1. Approval of Minutes – May 12, 2021

MOTION: Motion by Commissioner Tavana to approve adoption of the Consent Calendar. **Seconded** by Commissioner Suzuki.

VOTE: Motion passed 6-0 with Commissioner Thomas abstaining.

PUBLIC HEARINGS

2. 102 Alta Heights Court

Architecture and Site Application S-20-029

APN 532-29-045

Applicant: Eric Beckstrom

Property Owner: Bo Development, LLC

Project Planner: Ryan Safty

Requesting approval for demolition of an existing single-family residence and construction of a new single-family residence with reduced front and side setbacks on nonconforming property zoned R-1:8.

Ryan Safty, Associate Planner, presented the staff report.

Opened Public Comment.

Eric Beckstrom, Architect/Co-owner (Applicant)

- There is a wide variety of home sizes and styles in the Loma Alta neighborhood. The current house is tired and poorly built. The lot is challenging because it is small and oddly shaped. They propose to build a modest Tudor style, two-story home to blend into the historic village setting. The proposed home meets the Los Gatos square footage size and height limits, adds only 249 square feet to the existing house footprint, and will be passively heated. They have followed the consulting architect's recommendations. They previously met with all the neighbors and received unanimous support.

Rajiv Parihar, 104 Alta Heights

- They live on the north side of the subject site. They are concerned regarding the massing, bulk, and placement of the proposed home. They are also concerned that the applicant has asked for a reduction of the side setbacks on the east and west elevations and they request the setbacks remain at the current eight feet due to privacy concerns. They request the proposed cantilever projection on the east side of the house be eliminated. They request the front setback be 20 feet instead of 18 feet so vehicles can fully pull into the driveway. They ask that the height of the proposed house be reduced due to light and view concerns.

Harvey Grasty, 106 Alta Heights Court

- He neither objects to the project nor supports it. He agreed with Mr. Parihar regarding the front setback and the driveway. He also requested the height of the house be reduced, saying it feels like an ominous structure given its size and how it is placed.

Eric Beckstrom, Architect/Co-owner (Applicant)

- There are houses in the Loma Alta neighborhood that are taller than their proposed home, even the one next to them. They worked hard to make the house fit the lot, and a reduction to the side setbacks would require a full redesign of the project. The house next door has a front setback of only 4.5 feet. Vehicles would be able to park adequately in their design and setting the house back farther would be detrimental to the large Oak tree.

Closed Public Comment.

Commissioners discussed the matter.

MOTION: **Motion by Commissioner Hanssen** to approve an Architecture and Site Permit for 102 Alta Heights Court. **Seconded by Vice Chair Burch.**

VOTE: **Motion passed 6-1 with Commissioner Barnett dissenting.**

OTHER BUSINESS

REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT

Joel Paulson, Director of Community Development

- At the Planning Commission's next hearing it will participate in part of the CEQA process for an Environmental Impact Report. The Community Development Director and Town Attorney will put together additional information on the process for Commissioners to review at the meeting.
- Planning Manager Sally Zarnowitz will retire from her position on June 11, 2021.

SUBCOMMITTEE REPORTS/COMMISSION MATTERS

General Plan Committee

Commissioner Hanssen

- GPC met May 26, 2021 to review the enabling documents for the General Plan Committee as well as the application to make them more inclusive and encourage more applicants.

Conceptual Development Advisory Committee

Commissioner Barnett

- CDAC met June 9, 2021 at the Town Council's request to review and discuss the resolution that established the Committee and the procedural policy related to it. Recommended changes were submitted to the Policy Committee and will ultimately go to the Town Council.

ADJOURNMENT

The meeting adjourned at 8:09 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the June 9, 2021 meeting as approved by the Planning Commission.

/s/ Vicki Blandin



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 06/23/2021

ITEM NO: 2

DATE: June 14, 2021

TO: Planning Commission

FROM: Robert Schultz, Town Attorney

SUBJECT: Town Code Amendment Application A-21-001. Project Location: Town Wide.
Applicant: Town of Los Gatos. Consider Amendments to Chapter 29, Article I,
Division 2 (Zoning Regulations) Regarding Tree Protection.

BACKGROUND:

On January 21, 2021, the Town Council identified as a Town Ordinance priority the Town's Tree Protection Ordinance. The amendments needed relate to the fines and penalties associated with illegal trimming and removal of trees. These Code amendments are necessary to strengthen code enforcement and increase civil penalties for illegal tree removal or damage.

DISCUSSION:

Due to the press of other Town business, the Town Attorney has not completed his review and draft of the amendments to the Tree Protection Ordinance. Therefore, this matter must be continued to the August 11, 2021 Planning Commission Meeting.

PREPARED BY: ROBERT SCHULTZ
Town Attorney

Reviewed by: Community Development Director

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 06/23/2021

ITEM NO: 3

DATE: June 18, 2021
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Provide the Public with an Opportunity to Give Verbal Comments on the Draft Environmental Impact Report (DEIR) for a Request for a Planned Development for a Senior Living Community on Property Zoned R:PD Located at 110 Wood Road. APN 510-47-038. **No action will be taken at this meeting.** Property Owner: Covia Communities. Applicant: Rockwood Pacific. Project Planner: Sean Mullin.

RECOMMENDATION:

Open and hold a public hearing to allow the public to provide verbal comments on the Draft Environmental Impact Report (DEIR).

PURPOSE OF THIS HEARING:

As required by CEQA, this public hearing is being held during the 45-day public review period for the DEIR for the proposed project which includes a request for a Planned Development for a senior living community. The Notice of Availability for review of the DEIR was released on May 28, 2021, with the 45-day public review period ending on July 12, 2021. This public hearing is an opportunity for members of the public to provide verbal comments on the completeness and adequacy of the DEIR. Written comments will be accepted until the close of the public review period that ends at 5:00 p.m. on July 12, 2021.

The DEIR is an informational document that informs the public and the Town's decision-makers of significant environmental impacts related to the proposed project. The DEIR also identifies ways to minimize potentially significant impacts to a less than significant level through implementation of mitigation measures. The DEIR will be considered by the deciding body in its review of the proposed project. The findings within the DEIR do not mandate a particular decision on the proposed project, and the DEIR does not act as a recommendation for the

PREPARED BY: Sean Mullin, AICP
Associate Planner

Reviewed by: Community Development Director

PURPOSE OF THIS HEARING (continued):

proposed project. The proposed project may ultimately be approved, even if the DEIR discloses significant unavoidable impacts associated with the proposed project. Similarly, the proposed project may be denied, even if the DEIR finds that there are no significant impacts. A decision on the proposed project will be made based on the merits of the project and the record, including the DEIR.

This public hearing is not intended for consideration of the proposed project nor for the actual certification of the DEIR. The deciding body may not act on the merits of the proposed project until the Final Environmental Impact Report (FEIR) has been prepared. This public hearing is intended solely to allow the public an opportunity to provide verbal comments on the DEIR. Staff will not be responding to comments on the DEIR received during the public hearing. The responses to comments will be included in the FEIR.

NEXT STEPS:

Following the public hearing on June 23, 2021 and the close of the 45-day public review period on July 12, 2021, staff and the Town's Environmental Consultant will respond to all written comments and to the testimony received at this Planning Commission public hearing. The response to the comments will be provided in the FEIR, which will include any revisions to the DEIR necessitated by the comments that are received.

A public hearing for consideration of the FEIR and the proposed project has not been scheduled. The Town Council is the deciding body for the proposed project.

PUBLIC COMMENTS:

Written notice was sent to property owners and tenants within 300 feet of the subject property. At the time of this report's preparation, the Town has not received any public comment.

EXHIBIT:

Previously received under separate cover:

1. Notice of Availability and DEIR

Note that the complete DEIR is also available online at:
<https://www.losgatosca.gov/110WoodRoad>



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 06/23/2021

ITEM NO: 4

DATE: June 18, 2021
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Review and Discuss the California Environmental Quality Act PowerPoint.

REMARKS:

Staff has provided a PowerPoint from the League of California Cities 2021 Planning Commissioner's Academy titled CEQA 101: From the Beginning (Exhibit 1). This PowerPoint provides an overview of the California Environmental Quality Act (CEQA). We hope you find the PowerPoint helpful and that it serves as an easy to use resource for Planning Commissioners and the public regarding the CEQA process. The Town Attorney and staff look forward to the discussion with the Planning Commission regarding the topic covered in this PowerPoint.

EXHIBIT:

1. League of California Cities Planning Commissioner's Academy CEQA 101: From the Beginning

PREPARED BY: Joel Paulson
Community Development Director

Reviewed by: Community Development Director

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CEQA: Basics

Shannon George & Mark Teague

League of California Cities
Planning Commissioner's Academy
March 25, 2021 | 3:15 – 4:30

Presentation Overview

History & Purpose of CEQA

Terms and Acronyms

Who does what in the Process?

Types of CEQA Decisions

What is a Mitigation Measure

Public Comments

CEQA Changes ahead

CEQA's History

Enacted in 1970; signed into law by Governor Reagan

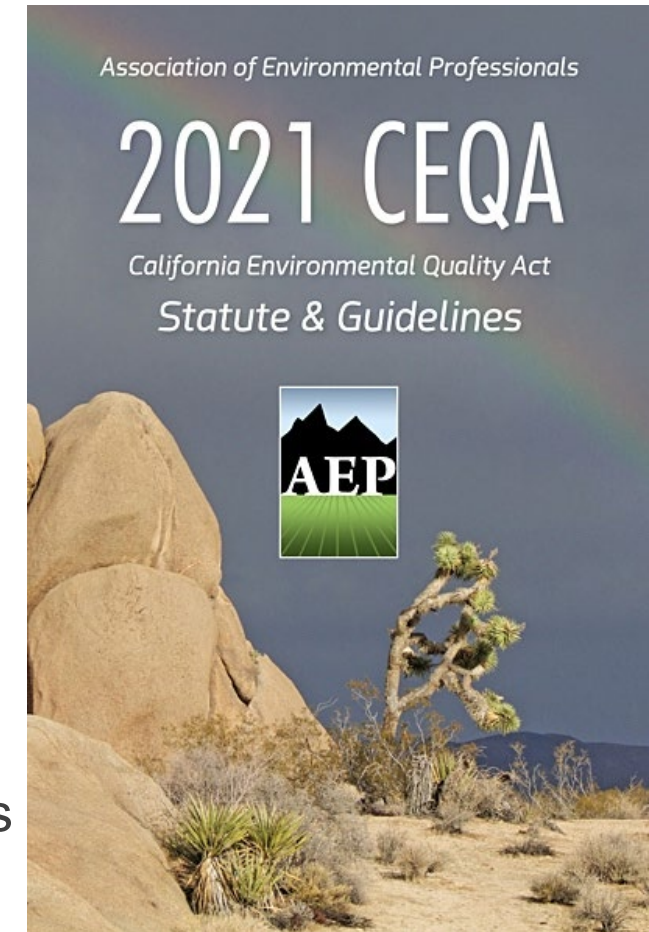
Based on *The Environmental Bill of Rights*

Modeled after *National Environmental Policy Act (NEPA)*

Implementation at local agency level by *Friends of Mammoth v. Board of Supervisors of Mono County* (1972) 8 Cal. 3rd 247

Important CEQA amendments in 1972, 1976, 1978, 1984, 1989, 1993, 2010, and 2019

Amended all the time by the legislature, courts, and local jurisdictions



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

Key Terms of CEQA

Baseline	A fixed point in time from which impact of future changes are analyzed
Environmental Impact Report	A means of approving a project that exceeds a threshold after mitigation
Exemption	A list of actions that the state believes do not need extensive analysis
Fair Argument	A reasonable person could come to a different conclusion
Impact	Change in the environment
Initial Study	Checklist of environmental topics to consider (Appendix G)
Mitigated Negative Declaration	A discussion of impacts that conclude that mitigation is needed
Mitigation Measure	A change to a project designed to reduce an impact below a threshold
Negative Declaration	A discussion of impacts that determine no mitigation is needed
Preponderance of the Evidence	51% of testimony supports the conclusion
Significant and Unavoidable Impact	An impact that cannot be reduced below the threshold of significance
Significant Impact	Change in the environment that exceeds a threshold of significance
Speculation	Making up a future condition
Substantial Evidence	At least 1 study supports the conclusion
Thresholds of Significance	A point at which the agency determines an impact is important

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

The Players

Applicant:	A representative of the project who is responsible for the submittal of all information and usually both the cost of the environmental analysis and the legal indemnification if the agency is sued.
Staff:	Usually someone in the Planning Department charged with coordinating both in-agency review, and communication with other agencies.
Public:	The recipient of the information, and the target audience.
Lead Agency:	The agency with discretionary change to which the Applicant has applied.
Consultant:	Staff from either the public or private sector hired to provide assistance or expertise for the Lead Agency Staff.
Responsible Agency:	An agency with some permitting authority, but not approval authority over the project.
Planning Commission:	A volunteer body tasked with reviewing hundreds of pages of highly technical information in order to make a decision narrowly defined by law and to be roundly criticized for having made the decision. (Or not make a decision.)

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.

Once we have a project, then...

We must determine the level of environmental review.

Three basic outcomes:

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



Yes, the CEQA Guidelines say this...

Once a lead agency has determined that an activity is a project subject to CEQA, a lead agency shall determine whether the project is exempt from CEQA. (15061(a))





How are CEQA determinations made?

- Knowledge of the community
- Precedent of decision makers
- Understanding of the impacts
- Results of technical studies
- Public Controversy

Managing Risk

Weighing cost with benefit

Higher 'protection' comes at a cost

Not all decisions are obvious

The deciding factor is the difference between fair argument and substantial evidence

Ministerial vs. Discretionary Projects

Ministerial:

Little personal judgment, use of fixed or objective standards

Discretionary:

Requires exercise of judgment or deliberation

Mixed Decision Projects:

Considered discretionary

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 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

Exemptions

- Statutory:** Items ruled by the legislature to be exempt from CEQA. (15260–15285) and other places in the state statutes.
- 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))

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



Context is Everything

Every community has different standards

Comparing agencies is difficult

Not all large projects have impacts

Not all small project don't

How do we know?

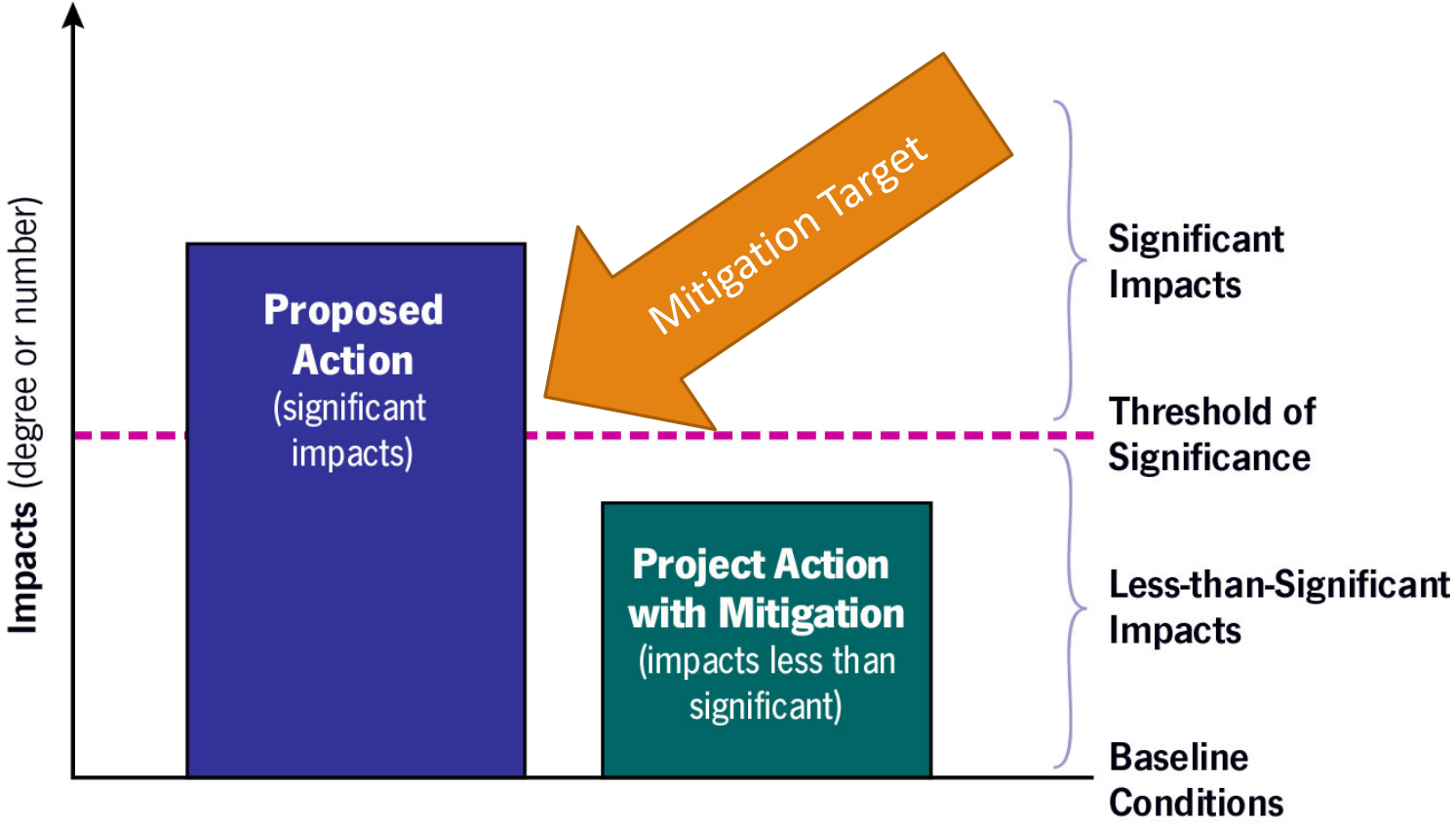
Threshold of Significance

A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, noncompliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.

Found in:

- CEQA Guidelines
- General Plan
- Municipal Code
- Adopted Development Standards

Understanding Thresholds



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

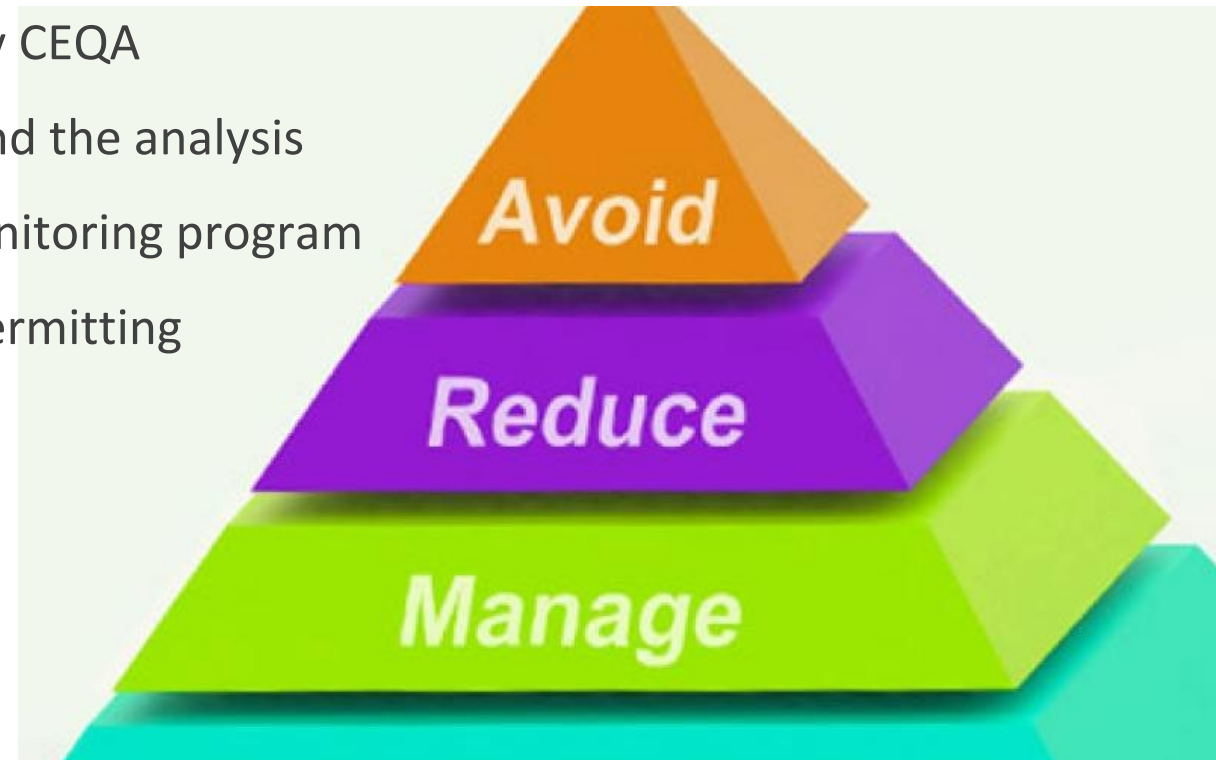
Project Features that Minimize Impacts

Are specifically allowed (perhaps encouraged) by CEQA

Should be called out in the project description and the analysis

Many put them in the executive summary or monitoring program

Design features can be hard to follow through permitting



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

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 time a heads up if you have a question

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.

What CEQA isn't...

Perfect

An advocate for a project

The project itself

A chance to fix existing problems

An encyclopedia of everything
everywhere

The analysis of 'worst case'

A decision maker

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

Vehicle Miles Traveled vs. Level of Service

Lack of discretionary approval for some projects

Objective standards

Use of Section 15183.3 Infill to avoid more EIRs

Increased use of Addendums

More emphasis on planning, less on CEQA



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/>



Shameless Plug for CEQA 201 - In The Weeds
Wednesday, March 31, 2021 | 10:45 – 12:00

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