

### **Outline - Lecture 3**

- Review – Process: Exemptions
- Announcements?
- PROCESS: Initial Study
- SUBSTANCE: Resource Area Land use/Planning
- Questions

#### **Review**

- Freewrite:
  - What is a difference between a statutory and a categorical exemption to CEQA?
    - ◆ Which one has exceptions, and what are they?
    - ◆ Why would a project proponent file a notice of exemption?
    - ◆ Where is the notice posted?

#### **Announcements?**

- Hand out
  - Freewrites/Questions from end of class
  - Notices of Exemption
  - Meeting Plans
  - Group notes
- Other Announcements? Meetings?
  - Next election is June 3 (register by May)
    - ◆ [http://www.sos.ca.gov/elections/elections\\_calendar\\_2008.htm](http://www.sos.ca.gov/elections/elections_calendar_2008.htm)

#### **Starting the assessment process**

- Phase one - Scoping
  - Define project
  - Check for exemptions
- Phase two – Focusing - Initial Study
  - Checklist and explanations
- Phase three - Evaluation of significance
  - Negative Declaration or
  - Environmental Impact Report
- Decision

#### **Initial Study – why?**

- Lead agency completes Initial Study to:
  - Decide whether to prepare
    - ◆ negative declaration (ND) or mitigated ND, or
    - ◆ Environmental Impact Report (EIR)
  - Focus ND or EIR on potentially significant effects
- No need for initial study if EIR is definitely required:
  - new hazardous waste incineration
  - new UC, CSU or JC campus
  - open pit mining with cyanide

#### **The risks of rushing environmental impact assessment**

- Environmental risk + Risk of a bad decision + Risk of not disclosing to the public = LEGAL RISK (p.8)

#### **What is in an Initial Study?**

- Identifying Information/Location and contacts
- Project Description
- Checklist
- For each resource area potentially affected:
  - Environmental setting *before* project
  - Objective threshold of significance (from checklist)
  - Significance level
  - Impact explanation
  - Mitigations (if required)
- Recommendation for ND or EIR

#### **Identifying Information**

- (p. 313)
- location includes cross-streets
- General Plan designation (see maps)
- Zoning (see zoning maps)
- Contact people at lead agency
- Project proponent

#### **Project Description**

- Should cover all phases
  - planning, implementation, operation
- Clear and complete enough to evaluate
  - objectives of project
  - potential impacts of project

#### **Checklist**

- (p.314+)-- Appendix G of guidelines
- Also, see appendix F for energy
- For each resource area with any impact greater than “no impact”**
- Naked checklist is insufficient!
  - a) **Environmental Setting before project**
    - physical condition of the resource
      - ◆ on site
      - ◆ in adjacent environment

#### **b) Thresholds of significance:**

- “a quantitative or qualitative standard, or set of criteria, pursuant to which the significance of a given environmental effect may be determined”
  - established health standards
  - public service capacity
  - ecological tolerance standards
  - established guidelines and local registers
    - ◆ See Figure 5-2 (p.97)

#### **Where do you find thresholds?**

- This is the SUBSTANCE part
- Start with the STATE checklist

- Rephrase questions as “if ..., then the impact would be considered significant.”
- See Figure 2-8, p.42

**...then find local criteria**

■ Consult the relevant LOCAL planning docs:

- General Plan
- Specific Plan
- Zoning Code and
- other local environmental ordinances or adopted thresholds (see appendix 10, p. 393) and <http://ceres.ca.gov/ceqa/>

**c) Significance level**

■ Four choices (from checklist):

- no impact  
=====vs.=====
- 2. less-than-significant or
- 3. less-than-significant with mitigation incorporation  
===== vs. =====
- 4. potentially significant

■ Reiterate which one you recommend in the text

**What amount of impact is “significant?”**

■ “a substantial or potentially substantial change in any of the physical conditions within the area affected by the project”

■ Yes, this can be tricky

**d) Impact explanation**

- Describe the logic/evidence that supports the significance level, using:
- Field studies
  - Research maps, existing publications, species lists
  - Projections/assumptions from comparable initial studies
  - Expert consultants (ideally with degrees)
    - ◆ cite all sources
    - ◆ Facts, reasonable assumptions, and expert opinion only!
    - ◆ Avoid argument, speculation, opinion, or social factors
    - ◆ consider both direct and indirect effects
  - Clearly relate the projections with the threshold

**Cumulative impacts**

■ Be sure to consider combined effect of proposed project WITH all other approved or proposed projects in the vicinity

**e) Mitigations**

- Measures that reduce the impact of human activities
- from “potentially significant” to “less-than-significant”
    - ◆ See Figure 5-2 (p.97)

**Examples**

<http://www.sanjoseca.gov/planning/eir/eir.asp>  
[http://www.sanjoseca.gov/planning/eir/Nd2/CP07-063/CP07-063\\_IS.pdf](http://www.sanjoseca.gov/planning/eir/Nd2/CP07-063/CP07-063_IS.pdf)

- See printout
  - Find:
    - ◆ identifying info
    - ◆ project description
    - ◆ Checklist sections
  - Try to identify
    - ◆ Setting and
    - ◆ Thresholds
  - Compare with handout

■ Which format is easier to understand?

**Recommendation for**

**Negative Declaration or Environmental Impact Report**

■ ND

- if all impacts are less than significant

■ mitigated ND

- must mitigate all potentially significant impacts to less than significant

=====

■ EIR

- If even one unmitigatable potentially significant effect remains => complete an EIR

**When must an EIR be prepared?**

**“Fair Argument” standard**

■ Fairly argued in light of the whole record

- Based on *substantial* evidence
  - ◆ not *solely* arguments, speculation, opinion
- however, public opinion and controversy *must be* considered if any substantial evidence exists

■ That the project may have a significant effect on the environment

- Even if conflicting evidence exists

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**Resource Area**

**LAND USE AND PLANNING**

**a) Environmental Setting**

■ Current General Plan Designation

- Specific plans
- Current Zoning
- local coastal programs, etc.

### *What's a general plan?*

- General Plan --
  - 7 elements required by the state (OPR)
    - ◆ land use
    - ◆ circulation
    - ◆ housing
    - ◆ conservation of natural resources
    - ◆ open-space
    - ◆ noise
    - ◆ Safety
  - As of 2003: include guidelines on Environ'tal Justice
    - ◆ <http://www.califaep.org/content.asp?pid=72#1553>
  - City of San Jose General Plan:
    - ◆ e.g.
      - <http://www.sanjoseca.gov/planning/gp/gptext.asp>
      - and
      - [http://www.sanjoseca.gov/planning/gp\\_maps/images/maps/Citywide\\_General\\_Plan.pdf](http://www.sanjoseca.gov/planning/gp_maps/images/maps/Citywide_General_Plan.pdf) ,

### *Specific or area plan*

- implements GP in local area, adds detail
- For example:
  - ◆ City of San Jose
    - [http://www.sanjoseca.gov/planning/spec\\_plan/default.asp](http://www.sanjoseca.gov/planning/spec_plan/default.asp)
  - ◆ Coyote Valley
    - <http://www.sanjoseca.gov/coyotevalley/history.html>

### *What's zoning?*

- General plan is the “constitution”
- Zoning is the “law”
  - Implements general plan policies and goals
  - Must be consistent with General Plan
- For San Jose:
  - ◆ [http://www.sanjoseca.gov/planning/pdf/zoning\\_code.pdf](http://www.sanjoseca.gov/planning/pdf/zoning_code.pdf) and
  - <http://www.sanjoseca.gov/planning/zonemap/default.asp>

## **LAND USE AND PLANNING**

### *b) Thresholds of significance*

If the project would:

- a) Physically divide an established community,
- b) Conflict with any applicable land use plan, policy, or regulation, or
- c) Conflict with any applicable habitat conservation plan or natural community conservation plan  
(See biotics as well)

...then its impact would be considered significant

### *Questions:*

*What one question would you like to be answered?*

*What was the most interesting part of today's class?*

*What was the muddiest part of today's lecture?*