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California Office of Historic Preservation Technical Assistance Series #1

California Environmental Quality Act (CEQA) and Historical Resources

Introduction

The California Environmental Quality Act (CEQA – pronounced see' kwa) is the principal statute mandating environmental assessment of projects in California. The purpose of CEQA is to evaluate whether a proposed project may have an adverse effect on the environment and, if so, if that effect can be reduced or eliminated by pursuing an alternative course of action or through mitigation. CEQA is part of the Public Resources Code (PRC), Sections 21000 et seq.

The CEQA Guidelines are the regulations that govern the implementation of CEQA. The CEQA Guidelines are codified in the California Code of Regulations (CCR), Title 14, Chapter 3, Sections 15000 et seq. and are binding on state and local public agencies.

The basic goal of CEQA is to develop and maintain a high-quality environment now and in the future, while the specific goals of CEQA are for California's public agencies to:

1. Identify the significant environmental effects of their actions; and, either
2. Avoid those significant environmental effects, where feasible; or
3. Mitigate those significant environmental effects, where feasible.

CEQA applies to "projects" proposed to be undertaken or requiring approval by state and local public agencies. "Projects" are activities which have the potential to have a physical impact on the environment and may include the enactment of zoning ordinances, the issuance of conditional use permits and variances and the approval of tentative subdivision maps.

Where a project requires approvals from more than one public agency, CEQA requires one of these public agencies to serve as the "lead agency." A "lead agency" must complete the environmental review process required by CEQA. The most basic steps of the environmental review process are:

1. Determine if the activity is a "project" subject to CEQA;
2. Determine if the "project" is exempt from CEQA;

3. Perform an Initial Study to identify the environmental impacts of the project and determine whether the identified impacts are "significant". Based on its findings of "significance", the lead agency prepares one of the following environmental review documents:
 - Negative Declaration if it finds no "significant" impacts;
 - Mitigated Negative Declaration if it finds "significant" impacts but revises the project to avoid or mitigate those significant impacts;
 - Environmental Impact Report (EIR) if it finds "significant" impacts.

The purpose of an EIR is to provide State and local agencies and the general public with detailed information on the potentially significant environmental effects that a proposed project is likely to have, to list ways that the significant environmental effects may be minimized and to indicate alternatives to the project.

Throughout this handout you will find references to various sections of the California Public Resources Code and the Code of Regulations. The various State statutes and regulations can all be accessed on-line at the following websites:
Statutes - <http://www.leginfo.ca.gov/calaw.html>
Regulations - <http://ccr.oal.ca.gov/>

This handout is intended to merely illustrate the process outlined in CEQA statute and guidelines relative to historical and cultural resources. These materials on CEQA and other laws are offered by the State Office of Historic Preservation for informational purposes only. This information does not have the force of law or regulation. This handout should not be cited in legal briefs as the authority for any proposition. In the case of discrepancies between the information provided in this handout and the CEQA statute or guidelines, the language of the CEQA statute and Guidelines (PRC § 21000 et seq. and 14 CCR § 15000 et seq.) is controlling. Information contained in this handout does not offer nor constitute legal advice. You should contact an attorney for technical guidance on current legal requirements.

Questions and Answers

When does CEQA apply?

Resources listed in, or determined to be eligible for listing in, the California Register are resources that must be given consideration in the CEQA process.

All projects undertaken by a public agency are subject to CEQA. This includes projects undertaken by any state or local agency, any special district (e.g., a school district), and any public college or university.

CEQA applies to discretionary projects undertaken by private parties. A discretionary project is one that requires the exercise of judgement or deliberation by a public agency in determining whether the project will be approved, or if a permit will be issued. Some common discretionary decisions include placing conditions on the issuance of a permit, delaying demolition to explore alternatives, or reviewing the design of a proposed project. Aside from decisions pertaining to a project that will have a direct physical impact on the environment, CEQA also applies to decisions that could lead to indirect impacts, such as making changes to local codes, policies, and general and specific plans. Judgement or deliberation may be exercised by the staff of a permitting agency or by a board, commission, or elected body.

CEQA does not apply to ministerial projects. A ministerial project is one that requires only conformance with a fixed standard or objective measurement and requires little or no personal judgment by a public official as to the wisdom or manner of carrying out the project. Generally ministerial permits require a public official to determine only that the project conforms with applicable zoning and building code requirements and that applicable fees have been paid. Some examples of projects that are generally ministerial include roof replacements, interior alterations to residences, and landscaping changes.

For questions about what types of projects are discretionary and ministerial within your community, you must contact your local government; usually the local Planning Department handles such issues.

What is the California Register and what does it have to do with CEQA?

Historical resources are recognized as part of the environment under CEQA (PRC § 21002(b), 21083.2, and 21084.1). The California Register is an authoritative guide to the state's historical resources and to which properties are considered significant for purposes of CEQA.

The California Register includes resources listed in or formally determined eligible for listing in the National Register of Historic Places, as well as some California State Landmarks and Points of Historical Interest. Properties of local significance that have been designated under a local preservation ordinance (local landmarks or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the California Register and are presumed to be significant resources for purposes of CEQA unless a preponderance of evidence indicates otherwise (PRC § 5024.1, 14 CCR § 4850).

The California Register statute (PRC § 5024.1) and regulations (14 CCR § 4850 et seq.) require that at the time a local jurisdiction *nominates* an historic resources survey for listing in the California Register, the survey must be updated if it is more than five years old. This is to ensure that a *nominated survey* is as accurate as possible at the time it is listed in the California Register. However, this does not mean that resources identified in a survey that is more than five years old need not be considered "historical resources" for purposes of CEQA. Unless a resource listed in a survey has been demolished, lost substantial integrity, or there is a preponderance of evidence indicating that it is otherwise not eligible for listing, a lead agency should consider the resource to be potentially eligible for the California Register.

However, a resource does not need to have been identified previously either through listing or survey to be considered significant under CEQA. In addition to assessing whether historical resources potentially impacted by a proposed project are listed or have been identified in a survey process, lead agencies have a responsibility to evaluate them against the California Register criteria prior to making a finding as to a proposed project's impacts to historical resources (PRC § 21084.1, 14 CCR § 15064.5(3)).

Are archeological sites part of the California Register?

An archeological site may be considered an historical resource if it is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military or cultural annals of California (PRC § 5020.1(j)) or if it meets the criteria for listing on the California Register (14 CCR § 4850).

CEQA provides somewhat conflicting direction regarding the evaluation and treatment of archeological sites. The most recent amendments to the CEQA Guidelines try to resolve this ambiguity by directing that lead agencies should first evaluate an archeological site to determine if it meets the criteria for listing in the California Register. If an archeological site is an historical resource (i.e., listed or eligible for listing in the California Register) potential adverse impacts to it must be considered, just as for any other historical resource (PRC § 21084.1 and 21083.2(l)).

If an archeological site is not an historical resource, but meets the definition of a "unique archeological resource" as defined in PRC § 21083.2, then it should be treated in accordance with the provisions of that section.

What is “substantial adverse change” to an historical resource?

Substantial adverse change includes demolition, destruction, relocation, or alteration such that the significance of an historical resource would be impaired (PRC § 5020.1(q)).

While demolition and destruction are fairly obvious significant impacts, it is more difficult to assess when change, alteration, or relocation crosses the threshold of substantial adverse change. The CEQA Guidelines provide that a project that demolishes or alters those physical characteristics of an historical resource that convey its historical significance (i.e., its character-defining features) can be considered to materially impair the resource's significance.

How can “substantial adverse change” be avoided or mitigated?

A project that has been determined to conform with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* can generally be considered to be a project that will not cause a significant impact (14 CCR § 15126.4(b)(1)). In fact, in most cases if a project meets the *Secretary of Interior's Standards for the Treatment of Historic Properties* it can be considered categorically exempt from CEQA (14 CCR § 15331).

Mitigation of significant impacts must lessen or eliminate the physical impact that the project will have on the historical resource. This is often accomplished through redesign of a project to eliminate objectionable or damaging aspects of the project (e.g., retaining rather than removing a character-defining feature, reducing the size or massing of a proposed addition, or relocating a structure outside the boundaries of an archeological site).

Relocation of an historical resource may constitute an adverse impact to the resource. However, in situations where relocation is the only feasible alternative to demolition, relocation may mitigate below a level of significance provided that the new location is compatible with the original character and use of the historical resource and the resource retains its eligibility for listing on the California Register (14 CCR § 4852(d)(1)).

In most cases the use of drawings, photographs, and/or displays does not mitigate the physical impact on the environment caused by demolition or destruction of an historical resource (14 CCR § 15126.4(b)). However, CEQA requires that all feasible mitigation be undertaken even if it does not mitigate below a level of significance. In this context, recordation serves a legitimate archival purpose. The level of documentation required as a mitigation should be proportionate with the level of significance of the resource.

Avoidance and preservation in place are the preferable forms of mitigation for archeological sites. When avoidance is infeasible, a data recovery plan should be prepared which adequately provides for recovering scientifically consequential information from the site. Studies and reports resulting from excavations must be deposited with the California Historical Resources Regional Information Center (see list in Appendix G).

Merely recovering artifacts and storing them does not mitigate impacts below a level of significance.

What are “exemptions” under CEQA and how are they used?

There are basically two types of exemptions under CEQA: statutory and categorical. Statutory exemptions are projects specifically excluded from CEQA consideration as defined by the State Legislature. These exemptions are delineated in PRC § 21080 et seq. A statutory exemption applies to any given project that falls under its definition, regardless of the project's potential impacts to the environment. However, it is important to note that any CEQA exemption applies only to CEQA and not, of course, to any other state, local or federal laws that may be applicable to a proposed project.

Categorical exemptions operate very differently from statutory exemptions. Categorical exemptions are made up of classes of projects that generally are considered not to have potential impacts on the environment. Categorical exemptions are identified by the State Resources Agency and are defined in the CEQA Guidelines (14 CCR § 15300-15331). Unlike statutory exemptions, categorical exemptions are not allowed to be used for projects that may cause a substantial adverse change in the significance of an historical resource (14 CCR § 15300.2(f)). Therefore, lead agencies must first determine if the project has the potential to impact historical resources and if those impacts could be adverse prior to determining if a categorical exemption may be utilized for any given project.

If it is determined that a statutory or categorical exemption could be used for a project, the lead agency may produce a notice of exemption, but is not required to do so. If a member of the public feels that a categorical exemption is being improperly used because the project could have a significant adverse impact on historical resources, it is very important that any appeals be requested and comments be filed making the case for the exemption's impropriety. If a notice of exemption is filed, a 35-day statute of limitations will begin on the day the project is approved. If a notice is not filed, a 180-day statute of limitations will apply. As a result, lead agencies are encouraged to file notices of exemption to limit the possibility of legal challenge.

What are local CEQA Guidelines?

Public agencies are required to adopt implementing procedures for administering their responsibilities under CEQA. These procedures include provisions on how the agency will process environmental documents and provide for adequate comment, time periods for review, and lists of permits that are ministerial actions and projects that are considered categorically exempt. Agency procedures should be updated within 120 days after the CEQA Guidelines are revised. The most recent amendments to the CEQA Guidelines occurred in November 1998 and included specific consideration of historical resources. An agency's adopted procedures are a public document (14 CCR § 15022).

Additionally, local governments will often produce materials for distribution to the public explaining the local CEQA process. The OHP strongly recommends the creation of such documents to further aid the public in understanding how CEQA is implemented within each local government's jurisdiction. Often a local historic preservation ordinance will also come into play in that process. In such instances, the OHP further recommends that the local ordinance procedures be explained in a straightforward public document. The materials distributed by the City of San Diego are included in this booklet in Appendix H as an example.

Who ensures CEQA is being followed properly?

In a way, the people of California bear this responsibility. But, ultimately, it is the judicial system that ensures public agencies are fulfilling their obligations under CEQA. There is no CEQA "police" agency as many members of the public mistakenly assume. Rather it is any individual or organization's right to pursue litigation against a public agency that is believed to have violated its CEQA responsibilities.

Although the OHP can, and often does, comment on documents prepared for CEQA purposes (or the lack thereof), it is important that the public be aware that such comments are merely advisory and do not carry the force of law. Comments from state agencies and other organizations with proven professional qualifications and experience in a given subject can, however, provide valuable assistance to decision-makers as well as provide substantive arguments for consideration by a judge during CEQA litigation.

How should a citizen approach advocating for historical resources under CEQA?

1. Familiarize yourself with CEQA. CEQA is a complex environmental consideration law, but the basics of it can be mastered with some concerted education. There is a large amount of information available on the subject of CEQA. Please refer to the following section of this publication for some suggested information sources. Additionally, contact your local government and request a copy of their local CEQA guidelines as well as any public informational handouts they may have available.

Finally, familiarize yourself with the local codes related to historical resources. Find out if there is a local historic preservation ordinance that would serve to provide protection for the historical resource in question. If so, find out how the review process under that ordinance works. Research ways you can make your opinion heard through that process as well as the general CEQA environmental review process. Usually local ordinances will allow for greater protection for historical resources than CEQA's requirement of consideration. Therefore this is a very important step.

It cannot be emphasized enough the importance of educating yourself prior to an actual preservation emergency arising. CEQA puts in place very strict time controls on comment periods and statutes of limitations on litigation. These controls do not allow

much time to learn CEQA in the heat of an impending project. It is far, far better to have at least a cursory understanding of CEQA and local codes related to historical resources well in advance of having to take on a preservation advocacy battle.

2. If and when there is an "action" or a "project" that would invoke CEQA, you should contact the local government undertaking the action. First rule, don't give up if you get shuffled from person to person. Stick with it. Ultimately, you want to get to the person in charge of the project (usually that's a planner in the Planning Department, but it might also be someone with Parks and Recreation, Public Works, Building and Safety, etc.). When you get to the right person, ask where they are in terms of CEQA compliance (using an exemption, preparing initial study or preparing CEQA document).

If the lead agency is using an exemption, ask if they have filed or intend to file a notice of exemption. If so, obtain a copy of it and move to step 3. If not, and you question the use of the exemption, investigate how you go about requesting an appeal of the decision and do so. Additionally, contact OHP to discuss submitting written comments. See step 4 for further information on ensuring your right to initiate litigation.

Once the initial study is finished, the lead agency should know what type of CEQA document they're going to prepare (negative declaration, mitigated negative declaration, or environmental impact report). If the document has already been prepared, ask to have a copy mailed to you or ask where you can pick up a copy. If the document has not been prepared yet, ask to be placed on mailing list to receive a copy when it's done. If they don't keep a mailing list, then you need to keep an eye on the public postings board (usually at the Clerk's office) for when it does come out and then get a copy (some local governments also post on the internet, so you don't have to go in person or call in every week).

If the local government says they didn't do a CEQA document, ask why. Then call OHP to discuss where to go from there.

If the local government says that they prepared a CEQA document but the comment period on it is closed then there may not be much you can do (see litigation information in step 4); still, ask to have a copy of it sent to you. Then call OHP to discuss how best to proceed.

3. When you get a copy of the document, read it and call OHP to discuss. Then prepare your comments (don't dally, comment periods are usually for 45 days, but are sometimes only 30 days). Also, contact OHP as soon as possible to inform us when a document has come out so we can get a copy and comment on it as well. OHP does its best to respond to all citizens' requests for comments on CEQA documents. However, we cannot guarantee that we will be able to comment on a document with only a few days notice. Therefore, contacting us as soon as possible at the beginning of a comment period on a document, or, even better, prior to the release of the document, will help ensure that we are able to provide substantive written comments within the allotted time period.

4. Submit your comments and attend public hearings. Make sure all your concerns are on record (if the decision does go to litigation, the only thing the judge will be looking at is what's in the public record). Appeal any decision that doesn't go your way (you must exhaust all administrative remedies or your lawsuit—if it comes to that—won't be heard). Even if you do not intend to or want to initiate litigation, don't let the local government know that. You need to appear ready to take the matter to court, because often that's the only thing that will get their attention. If you know in advance that litigation will probably result, you should strongly consider hiring an attorney as early in the process as possible. An attorney will probably be able to provide much stronger arguments in commenting on the adequacy of a CEQA document than you as a member of the public would, and he or she can help ensure that your right to initiate litigation is protected.

5. Often you will find that CEQA doesn't provide you with a mechanism to protect a particular historical resource. This may be the case for a number of reasons, including that the project is private and ministerial (i.e., involves no discretion on the part of a public agency), is subject to a statutory exemption, or has been approved as a result of CEQA documents already having been prepared and circulated prior to your learning of the project. In these instances, you may find that a public relations campaign is your only recourse. In such situations, do not give up hope. There are many examples of citizens utilizing such means as the media, informational mailings and meetings, and dialogue with project developers to halt or alter a project even in the absence of legal remedies. This is an especially useful course of action when the proposed project involves a business that needs to build or retain a positive image in the minds of citizens in the local community in order to succeed.

What information is useful to have on hand when contacting OHP about a CEQA project?

Information about the project:

- Where is the project located? City, county, street address.
- Is there a project name? Often having the project name will make it easier for OHP to find out more information about the project when we contact the lead agency.
- What does the project propose to do? Demolish, alter, relocate an historical resource? Build housing, commercial offices, retail?

Information about the historic property (or properties) potentially impacted:

- Where is the property located? City, county, and a street address
- What is its name? If the property has an historic name, or even what it is generally known as in the local community, it may be easier for us to locate information on it.
- What do you know about the property? Why do you think it's significant?

Lead agency contact information:

- Who is the lead agency for the project? That is, who is undertaking the project (if it's a public project) or permitting it (if it's a private project)? Ideally this should include both

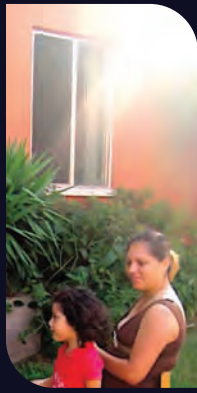
the name of the public agency as well as the department or division handling the project.

- Can you obtain a specific contact person's name? Do you have a phone number and/or email address for him or her?

Information on the development of the CEQA process thus far:

- What has the lead agency told you about the environmental review process so far?
- Do they know what type of CEQA document they're going to prepare?
- Have they already prepared one, and, if so, what is the public comment period on it?

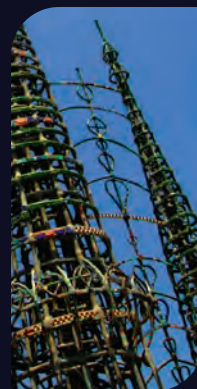
Please refer to Appendix A for a sample form you can use to collect this information.



Using CEQA to Protect Your Community



A brief guide to the
California
Environmental
Quality
Act



Did You Know?

Your Community Has a Right to Know & Act

Have you, or has someone you know, had to leave your home or seen a favorite gathering place demolished to make way for new development? What places mattered to you that are no longer there?

Did you know that you can do something about this?

Many people have seen the destruction of historic neighborhoods and sites without knowing that their voice could have made a difference. You have a say in how your community changes over time. There is a state law that gives you the right to know about development projects in your neighborhood and how they affect your community. Known as the **California Environmental Quality Act**, this law gives you a voice in the process and tools to help you protect important places, your quality of life, and the future of your neighborhood.

What Is the California Environmental Quality Act?

The California Environmental Quality Act, or “CEQA” (pronounced “SEE-quah”), was passed in 1970. CEQA declares it state policy to “develop and maintain a high-quality environment now and in the future, and to take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state.” It helps safeguard the natural environment as well as historic places that you and other members of the community consider too important to tear down. CEQA is the primary legal tool used in California to protect historic sites threatened with demolition.

At its simplest, CEQA requires a report to the public (called an “EIR” or “environmental impact report”) describing how a proposed development project would affect the quality of life of communities, including our basic rights to clean air, toxic-free buildings, ease of traffic, and cultural heritage. It requires our government agencies to avoid or minimize those impacts to the extent feasible by examining alternative approaches to the project. The specific

ways of reducing these impacts are developed through a public participation process in which the views of neighborhood residents must be taken into account.

Would new buildings result in more cars on the streets, increased congestion, and air pollution? Would the project tear down a historically significant building? CEQA gives you and your neighbors the right to have your voices heard when decisions about a proposed project are being made. CEQA does have limitations, however, and it does not guarantee that a historic building will be saved.

This booklet offers basic information about CEQA and how you can use it to empower, protect, and enhance your community. The examples show how various communities have used it in different ways. It is important to note that this is only one strategy to consider in your overall plan—one tool in your toolbox. But it is an important one.



At left: CEQA helps protect designated landmarks such as the historic bridges spanning the Los Angeles River, including the North Broadway Bridge (foreground) and the North Spring Street Viaduct. Photo by Kevin Break.

Why Care?

Understanding CEQA

Understanding CEQA and applying it to your organizing strategy can help you prevent the destruction of important landmarks in your community. You can help save a historic building or cultural space, protect your historic home, and actively participate in land use decisions that affect the quality of life in your neighborhood.

Historic buildings and neighborhoods serve as tangible links to our history and our collective memories. Because many cultural centers, residences, and small businesses occupy older buildings, preserving these spaces also maintains important anchors and services for the community.



Above: The 1927 McKinley Building on Wilshire Boulevard was demolished in 1998, erasing an important link to the community's past. Photo from L.A. Conservancy archives.

Top right: The Granados family home in El Sereno, one of nearly 1,000 homes threatened with demolition for the 710 Freeway extension. Photo courtesy Friezer Photography for the National Trust for Historic Preservation.



Losses That Might Have Been Prevented if CEQA Had Been in Place

With the postwar construction of freeways that crisscross Los Angeles, entire neighborhoods in East L.A., Boyle Heights, and elsewhere were paved over, divided, and destroyed. In the 1960s, before the passage of CEQA, the construction of the East Los Angeles Interchange in Boyle Heights isolated neighborhoods, displaced 10,000 people, and demolished 29,000 homes. At the time, community members protested, wrote letters to their councilmember, attended meetings, formed committees, and demonstrated in the streets. Despite their pleas, the project went forward. It is now the busiest freeway interchange in the United States.

Today, CEQA helps safeguard communities by giving residents legal tools to protect their neighborhoods. A good example of this is the decades-long grassroots campaign

opposing the 710 Freeway extension through El Sereno, South Pasadena, and Pasadena. In this case, CEQA was used in conjunction with federal environmental laws to halt the destruction of almost 1,000 homes and the division of four nationally recognized historic districts.

In 1973, the City of South Pasadena obtained an injunction prohibiting the California Department of Transportation (Caltrans) from building the extension until an environmental impact report (EIR) was properly completed. Another injunction resulted from a 1999 lawsuit filed by the National Trust for Historic Preservation, the City of South Pasadena, and a coalition of community and preservation groups. As a result of this broad-based call for an alternative to demolition, Caltrans and the Federal Highway Administration are still exploring sensitive approaches to the project.



How It Works:

The Environmental Impact Report

CEQA requires that project impacts on historical resources be recognized and considered by the city, county, state, or other governmental agency (the “**lead agency**”) responsible for approving a project that could destroy or otherwise adversely affect these resources. In some cases, the lead agency determines that the project will not have negative environmental impacts or that its impacts can be avoided by requiring the developer to meet certain conditions, or “mitigation measures.” If the project poses significant environmental impacts that cannot easily be avoided, an **environmental impact report (EIR)** is prepared.

The EIR is considered the heart of CEQA, providing the public and decision makers with an in-depth review of a project’s environmental impacts and feasible alternatives that would reduce those impacts. **The EIR process is the best opportunity for members of the public to promote alternatives to demolition.** If an EIR studies a feasible alternative to demolition, the lead agency may be required to change the project to reduce its impact on historical resources.



What Is a Historical Resource?

In order to take full advantage of legal protections under CEQA, it is essential to first **establish the significance of the building being threatened.** To automatically qualify as a “historical resource” under CEQA, and trigger the requirement for an EIR, any building targeted for demolition must be: (1) listed or determined eligible for listing in the National Register of Historic Places or the California Register of Historical Resources; or (2) listed in a city register of historic landmarks. However, a resource does not have to be officially designated in order to trigger the requirement for an EIR under CEQA.

This is where *your* role is so important. If a building threatened with demolition is not already listed in a historic register, members of the public must convince local officials that it qualifies as historic and is worthy of protection. Community activists need to research the site; share your stories; and submit documentation, photos, and expert testimony early in the environmental review process to show why the building is significant and meets local or state requirements for historic status.



A Different Strategy: Negotiating with the Developer

In some cases, the developer can be convinced to change its project or sell the property, especially in the face of well-organized community opposition. Community activists can help by bringing forward potential buyers committed to reusing the site in a way that is consistent with the needs of the community. You can also ask your City Council representative or County Supervisor to convene and mediate discussions between the community and the developer. If the EIR does not comply with CEQA, a viable lawsuit may be the last chance to prevent demolition. Efforts to work with the developer can significantly strengthen your position.

On rare but noteworthy occasions, local residents have worked with the developer and garnered enough financial support to buy the property and adapt the space to continue serving the community.

Top photo: The preservation of the Michael White Adobe (circa 1845) in San Marino was supported by the community when it was threatened with demolition in 2008. Photo by L.A. Conservancy staff.

Bottom photo: The Self Help Graphics & Art Building houses a thriving cultural center for Chicana/o art in the heart of unincorporated East Los Angeles. Photo by Edgar Garcia.

What You Can Do

Monterey County Jail

In December 1970, legendary labor leader Cesar Chavez was detained for twenty days at the Monterey County Jail in Salinas, California after refusing to stop a widespread lettuce boycott organized as part of the United Farm Workers movement. His detention was an important moment in our country's labor history.

When Monterey County announced plans to demolish the jail in 2001, the County denied that the building was historic and issued a demolition permit without preparing an EIR. Local activists and community historians testified at hearings about the jail's cultural and architectural significance, and later filed a lawsuit to stop its demolition.

Although the County dismissed the public testimony as "unsubstantiated opinion," the court disagreed and ordered the County to prepare an EIR. If there is a "fair argument" made that a building may qualify for the California Register of Historical Resources, it must be treated as historic for purposes of CEQA review. The jail is still standing today and is listed in the National Register of Historic Places, although its ultimate fate remains unresolved.

At right: Cesar Chavez leaves the Monterey County Jail in Salinas with supporters on December 24, 1970. Photo courtesy *Monterey County Herald*.

Document the history of the building. Is the building a significant gathering place for the community? Does it have artistic, cultural, or architectural value? Did an important event happen there? Talk to your neighbors and document their memories; gather old photos and newspaper clippings that tell the story of the site. Find out the criteria for listing a resource in a local or state historic register, and point out reasons why the building appears to meet one or more criteria. For tips on more in-depth research, contact the Los Angeles Conservancy or visit www.laconservancy.org.

Prepare a landmark nomination.

In cities with a historic preservation ordinance, buildings that have been listed as city landmarks automatically trigger review under CEQA and other protections under local law. These processes give the public an opportunity to propose alternatives to the project. For more information about how to nominate a building for landmark designation, contact the L.A. Conservancy or visit www.laconservancy.org.



We need to help students and parents cherish and preserve the ethnic and cultural diversity that nourishes and strengthens this community... and this nation.
-Cesar E. Chavez

Step 1:

The Scoping Process

Before an EIR is released, the lead agency must first determine which environmental impacts and alternatives to the project should be studied. The process of deciding what topics should be evaluated in the EIR is called “scoping.” The lead agency issues a **Notice of Preparation** of an EIR, which is a document that describes the project and invites public input.

In addition to posting notices at the project site, the lead agency is required to mail copies to organizations and individuals who have requested notice in writing. Notices must also be published in the local newspaper and posted at the County Recorder’s office. A thirty-day review period is required to allow members of the public to respond to the Notice of Preparation. Sometimes the lead agency will also hold a public scoping meeting.

At this stage in the process, it is important for community activists to



provide lots of information about the significance of a building threatened with demolition. It is also helpful to provide specific suggestions on how the proposed project can be changed to save the historic building and meet most of the developer’s goals.

CEQA is flexible enough to allow historic buildings to adapt to changing needs over time. This means that, for example, an abandoned building that was once an important gathering place can be altered or expanded to meet the developer’s needs, while still maintaining its presence in the community.



Wyvernwood Garden Apartments

Built in 1939, Wyvernwood was the first large-scale garden apartment complex in Los Angeles. Spanning more than seventy acres in Boyle Heights, the site has been determined eligible for listing in the National Register of Historic Places. Wyvernwood is also significant for its close-knit community: family ties spanning generations have shaped its unique sense of place.

In January 2008, the owner announced plans for a \$2 billion, 4,400-unit mixed-use project that would quadruple the site’s density and destroy Wyvernwood’s park-like setting. Wyvernwood residents quickly mobilized to oppose demolition.

Leaders of Comité de la Esperanza, a longtime residents’ group, knocked on doors to let their neighbors know about the proposed project and organized a march to the public scoping meeting. With City Council staff and the media looking on, hundreds of residents loudly protested against the project.

The future of Wyvernwood remains uncertain, but the residents’ message is clear: our homes and community matter, and we will influence the changes that affect our neighborhood.

Top photo: 2001 soccer tournament at Wyvernwood, known as Mundialito de la Esperanza. Photo by Roberto Mojica, El Comité de la Esperanza.

Bottom photo: Wyvernwood residents and supporters march through the historic garden apartment complex to the EIR scoping meeting in 2009. Photo by Gumaro Oviedo, El Comité de la Esperanza.

What You Can Do

Building the Record

In order to successfully challenge the lead agency's approval of a project that would demolish a historic building, evidence must be presented to decision makers during the environmental review process. Relevant documents should be submitted to the lead agency far enough in advance of the final decision to allow time for careful consideration and deliberation, although they may be submitted up until the close of the final public hearing at which the project is approved. These documents may include:

- Expert reports and studies regarding the building's eligibility for historic listing.
- Photos, video, news coverage, and newsletter articles conveying the site's significance.
- Expert information relating to the feasibility of alternatives, such as letters from the Los Angeles Conservancy and/or historic preservation architects and engineers.
- Examples of successful preservation projects around the state or nation—citing success stories of similar projects helps the public and decision makers visualize the end result.

At right: The Boyle Hotel (1889) is one of the most prominent and historic structures on L.A.'s Eastside. The hotel has served as home to countless mariachi musicians, who practice their craft in the adjacent Mariachi Plaza. Photos by Miguel Gandert.

Share your memories. Submit a letter during the scoping process explaining why the historic site is important, including personal stories, interviews, newspaper articles, old photos, flyers, and mementos.

Share your ideas. Provide specific suggestions on how the project can be changed to save the historic building and accomplish at least some of the developer's goals. The project goals should be listed in the Notice of Preparation.

Keep informed. Submit a written request to the Planning Department staff assigned to the project asking to receive notice of future public meetings and documents released for public comment.



Develop clear and concise messaging. Work with others to create talking points that summarize the building's significance and the goals of your campaign. You and others can use the talking points for clarity and consistency in speaking with other residents, potential allies, media, and public officials.

Meet with elected officials. Contact your City Councilmember or County Supervisor early in the process. Meet with them or their staff to explain why the building is important, and ask for their help in identifying possible solutions or mediating discussions with the developer.

Seek media coverage. Favorable press coverage is essential to swaying public opinion and persuading elected officials. Community activists need to build relationships with the media by hosting press events, issuing press releases, and submitting letters to the editor.



Step 2:

Draft Environmental Impact Report

Following the scoping process, the lead agency prepares a draft version of the EIR that is released to the public for comment. In general, the public review period for a Draft EIR ranges from thirty to sixty days.

The EIR must contain a summary of the proposed project and its environmental consequences—including a list of significant negative impacts—and study a reasonable range of alternatives to the project that would reduce those impacts. It must also address the issues raised in your comments on the Notice of Preparation during the previous scoping process. You should receive a copy of the EIR,

most likely on disk, if you asked for notification in the previous step. If not, check the Planning Department page on the lead agency's website to download a copy. EIRs are very lengthy documents; you can get much of what you need from the Executive Summary.

In commenting on the Draft EIR, community activists will need to continue advocating for alternatives that can save the historic building while meeting most of the developer's goals. Would reducing the size of the proposed project help save the historic building? Can the historic building be modified or expanded to meet the

owner's needs? Historic preservation efforts are rarely successful if they oppose demolition without offering an alternative that takes into account the developer's financial needs and other project goals. A purely anti-demolition stance may be discounted as extreme and inflexible.

Although CEQA helps safeguard historic buildings, it does not dictate how they should be used. **It's easier to build public and political support for an alternative solution that meets most of the goals of the proposed project.**



Built brick by brick by community members, the Maravilla Handball Court (1923) is the oldest handball court in East Los Angeles. "It is my passion to save the legacy of my people, my community, and our Chicano culture," says Maravilla Historical Society President Amanda Pérez, who grew up in the Maravilla neighborhood. "We want this place to be a beacon for all to come and step into the past, present, and future." Photos by Steve Saldivar (top) and L.A. Conservancy staff (left).

What You Can Do

Cathedral of Saint Vibiana

In 1996, the Roman Catholic Archdiocese of Los Angeles attempted to demolish the Cathedral of St. Vibiana. Built in 1876, it is the oldest structure in the historic core of downtown Los Angeles.

With the wrecking ball poised a few feet from the cathedral, the Los Angeles Conservancy obtained a temporary restraining order to stop the destruction because the Archdiocese did not have a demolition permit. The City then attempted to circumvent CEQA by revoking the cathedral's designation as a local historic landmark, hoping this would exempt the building from CEQA review. The Conservancy filed a second lawsuit and obtained a preliminary injunction, based on the City's failure to prepare an EIR proving that there were no feasible alternatives to demolition.

As a result of the lawsuit, the Archdiocese ultimately chose to develop a new cathedral complex at another downtown location. A preservation developer bought the former cathedral and transformed it into a thriving performing arts venue and event space.

At right: The restored interior and exterior of the former Cathedral of St. Vibiana, now a thriving performance and event space. Photos by Gary Leonard (top) and Ben Welsh (bottom).

Read the Executive Summary.

The EIR can be lengthy and difficult to understand. Start by reading the Executive Summary for an overview of the project and its goals, environmental impacts, and possible alternatives.

Read the Historic Resources/Cultural Resources section of the EIR.

Learn about how the lead agency has analyzed the historic and cultural significance of the existing building or property, and what project alternatives have been considered that would preserve some or all of the historic resource.



Attend public meetings. When the lead agency holds meetings on the project, it is essential for community members to show up and voice their concerns. Because political pressure to approve a project can be intense, it is important that the community be well organized to rally against demolition.

Bring in the experts. If the lead agency says that a historic resource cannot be saved because of its location or poor condition, get help from an architect, engineer, or friendly developer who specializes in historic buildings. They can present an alternative proposal, evaluate its costs, or challenge negative claims by the owner.

Talk to an attorney. Seek the advice of an attorney who specializes in CEQA to help you participate most effectively in the EIR process. In many instances, CEQA lawyers represent community groups on a *pro bono* basis or at a reduced rate, especially if you are well organized. For names of attorneys who specialize in CEQA and historic preservation law, you can contact the Los Angeles Conservancy.



Step 3:

Final Environmental Impact Report

The Final EIR must respond to all comments and questions submitted during the Draft EIR review period, as well as evaluate the feasibility of alternatives that would preserve the historic building. Based on the analyses in the Final EIR, the lead agency will then decide whether or not to approve the proposed project.

Although the lead agency is not required to solicit comments on the Final EIR, there are typically additional hearings before local review boards and commissions—such as the Planning Commission or City Council committees—where the public can testify and submit written information.



In the final stage of the process, the lead agency will “certify” the EIR and approve the proposed project or an alternative project. They may also approve a list of requirements, or “mitigation measures,” that must be completed in order to reduce environmental impacts. If adverse environmental impacts cannot be avoided, the lead agency will adopt a “statement of overriding considerations,” expressing the agency’s determination that the advantages of proceeding with the project outweigh the detriment of

losing a valuable historic resource, and explaining why. This determination may, in some circumstances, be challenged in court.

What You Can Do

Continue to submit new information. It is extremely important for the community to participate in every step of the EIR process. Although it is most effective when submitted early on in the process, testimony and

information supporting the significance of a building or the feasibility of an alternative can be submitted at any time before the final decision on the project.



Lincoln Place Garden Apartments

Completed in 1951, the Lincoln Place Garden Apartment complex in Venice is one of Los Angeles’ few examples of large-scale garden apartment design. In 2001, the previous owner announced a full-scale demolition and redevelopment plan to build hundreds of market-rate condominiums.

The fight to save Lincoln Place evolved into an epic preservation and tenant-rights battle with illegal demolitions, CEQA lawsuits, multiple hearings before the State Historical Resources Commission, and, ultimately, evictions.

In 2010, following years of negotiations, the Los Angeles City Council approved a settlement agreement between the Lincoln Place Tenants Association and the current property owner that will rehabilitate all existing buildings, enable eighty-three evicted tenants to return, and reactivate hundreds of rent-stabilized units on the Westside.

Top photo: Detail of Lincoln Place Garden Apartments in Venice. Photo by Ingrid E. Mueller.

Bottom photo: Community members rally in support of Lincoln Place Garden Apartments on Martin Luther King, Jr. Day in 2006. Photo courtesy Venice Arts Council.

CEQA Workshops Available

Are you interested in finding out more about CEQA and how you can use it to protect and enhance the historic resources in your community? The Los Angeles Conservancy can present workshops for ten or more people who are working on an active preservation advocacy issue and who need technical advice on how to proceed. For more information, please contact the Conservancy at (213) 623-2489 or info@laconservancy.org.

For More Information

Some of these links go to downloadable Adobe PDF files; you can download the free Adobe Acrobat Reader at www.adobe.com/reader.

Everyday Heroes:

Thirty-Five Years of the California Environmental Quality Act

Inspirational resource with case studies and a chapter specifically addressing historic resources; prepared by the Planning and Conservation League Foundation

www.pcl.org/projects/everydayheroes.html

Guide to Understanding CEQA in the City of Los Angeles:

An Easy-to-Use Primer on the California Environmental Quality Act

Older, but still relevant, document specific to Los Angeles; prepared by the City of Los Angeles Environmental Affairs Department

www.ci.la.ca.us/ead/pdf/CEQA_handbook.pdf

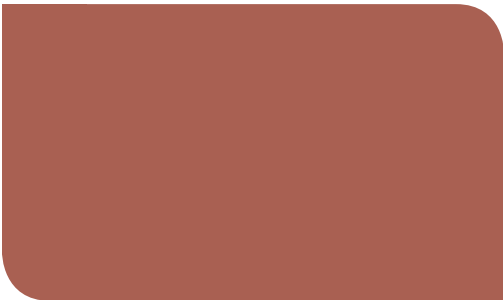
California Environmental Resources Evaluation System (CERES) CEQA Website

Database with more advanced, comprehensive CEQA information, including case law

<http://ceres.ca.gov/ceqa>

California State Law and Historic Preservation: Statutes, Regulations, and Administrative Policies Regarding Historic Preservation and Protection of Cultural and Historical Resources (California Office of Historic Preservation, Technical Assistance Series #10)

<http://ohp.parks.ca.gov/pages/1054/files/statelaws.pdf>



At right: The Maravilla Handball Court is part of the National Trust for Historic Preservation's "This Place Matters" campaign, spearheaded locally by the Los Angeles Conservancy, which identifies important historic sites that merit national attention. Photo by Steve Saldivar.

About the Los Angeles Conservancy

The Los Angeles Conservancy is a nonprofit membership organization that works through education and advocacy to recognize, preserve, and revitalize the historic architectural and cultural resources of Los Angeles County. A group of concerned citizens founded the Conservancy in 1978 as part of the community-based effort to prevent demolition of the Los Angeles Central Library. With 6,000 members and hundreds of volunteers, the Conservancy is now the largest group of its kind in the U.S. For more information, visit www.laconservancy.org.

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Front cover photos:

Top left: Wyvernwood Garden Apartments, Boyle Heights (Jesus Hermsillo)

Top right: Historic photo of El Centro Grocery next to Maravilla Handball Court, East L.A. (Maravilla Historical Society)

Middle left: Detail of wall mosaic on Self Help Graphics & Art Building, East L.A. (Edgar Garcia)

Bottom right: Watts Towers of Simon Rodia, Watts (Abbey Hambright)

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HOT TOPICS IN CEQA (A Lawyer's Perspective)

Presented by: Amy Forbes

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Brussels • Century City • Dallas • Denver • Dubai • Hong Kong • London • Los Angeles • Munich • New York
Orange County • Palo Alto • Paris • San Francisco • São Paulo • Singapore • Washington, D.C.

What's Being Talked About in CEQA World?

- Is it Discretionary?
- Can I Use a Categorical Exemption?
- When does an amendment to a previously approved project constitute a “new project”?
- What Constitutes Economic Infeasibility?
- Can I just go right to the People??

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Is It Discretionary?

- Is the permit **discretionary** or **ministerial**?
 - ❖ Building permits normally are ministerial
 - *Prentiss v City of S. Pasadena*, 15 Cal.App.4th 85 (1993)
 - ❖ Depending on the ordinance, building permits can be discretionary
 - *San Diego Trust & Sav. Bank v Friends of Gill*, 121 Cal.App.3d 203 (1981)
 - ❖ The scope of the approval is up to the agency...the scope shapes the required review
 - *Friends of Juana Briones House v. City of Palo Alto*, 190 Cal.App.4th 286 (2010) [Demolition permit found to be ministerial]
 - ❖ Question turns on whether agency has the power to shape the project to address environmental concerns

Remember: If there is a discretionary and a ministerial permit...the whole project is considered discretionary.

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Is It Discretionary?

- A ministerial act is defined as a governmental decision involving “little or no personal judgment by the public official as to the wisdom or manner of carrying out the project.” A public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out. Common examples of ministerial permits include dog licenses and marriage licenses. Cal. Code. Regs tit. 14, § 15369.
- A discretionary approval is one which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.

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Is It Discretionary?

- This is NOT the same distinction as legislative vs. administrative...or staff vs planning commission approval.
- A staff level approval can be discretionary.

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Tree Removal Permits? Moving Object Permit?

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The Endeavour Was Moved with Non-Discretionary Permits

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Detour: Standard Of Review

- In an action challenging an agency's compliance with CEQA, the standard of review depends on whether the alleged error is substantive or procedural:
 - Courts must defer to an agency's substantive decision if it is supported by substantial evidence.
 - Courts must strictly enforce the procedural requirements of CEQA
 - Fair argument vs Substantial Evidence

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Context: Judicial Involvement

- Unlike other challenges to administrative actions, courts show little deference to agency CEQA decisions. In an analysis of published decisions from 1997 to 2012:
 - Courts overturned EIRs 50% of the time;
 - Courts overturned Negative Declarations 58% of the time.
 - Courts overturned Categorical Exemptions 52% of the time.

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Can I Use a Categorical Exemption?

Berkeley Hillside Preservation v. City of Berkeley
60 Cal. 4th 1086 (2015)

- Appeals court invalidated a building permit relying on Guidelines section 15300.2, subdivision (c), which provides:
 - A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
- Found substantial evidence of a fair argument that the proposed project may have a significant environmental impact.
- Opponents submitted evidence that, of Berkeley's over 17,000 single-family residences, only 17 exceed 6,000 square feet, only 10 exceed 6,400 square feet, and only one exceeds 9,000 square feet.

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Two Pronged Test (and Confusion)

- The City's director of planning and development stated that 16 residences within 300 feet of the project have a greater floor-area-to-lot-area ratio and that 68 Berkeley —dwellingsl exceed 6,000 square feet, nine exceed 9,000 square feet, and five exceed 10,000 square feet.
- Court found: "As to projects that meet the requirements of a categorical exemption, a party challenging the exemption has the burden of producing evidence supporting an exception."
- Evidence that the project *will* have a significant effect *does* tend to prove that some circumstance of the project is unusual. An agency presented with such evidence must determine, based on the entire record before it — including contrary evidence regarding significant environmental effects — whether there is an unusual circumstance that justifies removing the project from the exempt class. When there are unusual circumstances, it is appropriate for agencies to apply the fair argument standard in determining whether there is a reasonable possibility of a significant effect on the environment due to unusual circumstances.

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Streamlined CEQA Process for Preservation



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No Longer Fabulous Forum

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Renovation and Signage Accomplished With a Cat Ex



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Is it a “New” Project

San Mateo County Community College Dist. Nonpublished opinion; Pending in the CA Supreme Court

- When a lead agency performs a subsequent environmental review and prepares a subsequent environmental impact report, a subsequent negative declaration, or an addendum, is the agency’s decision reviewed under a substantial evidence standard of review (*Mani Brothers Real Estate Group v. City of Los Angeles* (2007) 153 Cal.App.4th 1385), or is the agency’s decision subject to a threshold determination whether the modification of the project constitutes a “new project altogether,” as a matter of law (*Save our Neighborhood v. Lishman* (2006) 140 Cal.App.4th 1288)?

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San Mateo County Community College Dist

- District adopted a 2006 Master Plan contemplating that the Building 20 complex – which included an old, vacant, outmoded concrete building housing a classroom and lab facilities, three parking lots, a greenhouse, a lath house/storage building, and the “North and South Gardens” – would be “renovated.”
- District later opted to demolish Building 20 and portions of the Gardens to make room for additional parking and landscaping, while renovating two other buildings on the CSM campus that previously had been slated for demolition.
- Adopted a revised Addendum concluding the project change would not result in new or substantially more severe environmental impacts than previously disclosed.

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Open Issue: What Standard of Review???

Is the project “new” (subject to Pub. Resources Code § 21151 and “fair argument” review) or a “modification” of an already-reviewed project (thus invoking § 21166 and the deferential “substantial evidence” test)?

Is this question one of fact or law, and, hence, subject to deferential review?

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Economic Infeasibility

- *Uphold Our Heritage v. Town of Woodside* 147 Cal.App.4th 587 (2007)
- *Flanders Foundation v. City of Carmel* 202 Cal.App.4th 603 (2012)
- *SPRAWLDEF et al., v. SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION et al.* 226 Cal.App.4th 905(2014)

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Economic Infeasibility

- *Flanders Foundation v. City of Carmel* 202 Cal.App.4th 603 (2012)

Evidence Must be in the Record:

- “DEIR mentioned that an “economic analysis” was being prepared to “evaluat[e] the financial feasibility of the various project alternatives,” but this analysis was not included in the DEIR.”
- “While it was not necessary for the evidentiary basis for this claim [of economic infeasibility] to be contained in the FEIR itself, it was necessary for such a basis to exist in the administrative record.”

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Flanders Foundation v. City of Carmel

It isn't enough to prove that the Alternative is “possible”

- “The CBRE report extensively analyzed the local real estate rental market and determined that it would be very difficult, if not impossible, for the City to lease the Mansion property,...The no project alternative would leave the City in the position of remaining liable for ongoing maintenance costs without any viable use for the Mansion property. The City explicitly found that the financial drain on the City's resources made these alternatives infeasible.”
- “The CBRE report supported the City's finding that *the marginal costs of the lease alternatives so greatly exceeded the cost of the project that no reasonable property owner would proceed with either of the lease alternatives.*”
- “The Foundation also contends that the City's infeasibility findings did not ‘prove that lease of the Mansion to a single-family or non-profit organization could not accomplish most of the project objectives.’ That is not the standard.”

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SPRAWLDEF

- Solano County Ordinance, section 31-300, allows modification of a marsh watercourse only if no “reasonable alternative” exists. Lead agency found that a smaller expansion alternative, designed to avoid encroaching on the intermittent watercourse, would not be economically realistic. The trial found no substantial evidence supported the commission’s determination. The Court of Appeal reversed.
- Held that CEQA’s definition of economic “feasibility” embraces the concept of reasonableness.
- Applicant submitted data comparing the per unit cost, capacity, and the life of the landfill for each alternative. This was found to be an “adequate record to determine the smaller alternatives were not economically reasonable.”
- Made no difference that the information was provided by the applicant. It was up to the lead agency to find the information credible and accept it as accurate and relevant.

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Can I Just go right to the People?

- *Tuolumne Jobs & Small Business Alliance v. The Superior Court of Tuolumne County* 59 Cal.4th 1029 (2014)
- The case turned on the interplay between the Elections Code and CEQA.
- Did not explicitly find Elections Code procedures to be “ministerial” but wrote: “Finally, even if time constraints permitted CEQA review, cities would be powerless to reject the proposed project or to require alterations in the project that would lessen its environmental impacts, no matter what the review showed.”

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CITY OF CHAMPIONS REVITALIZATION PROJECT

JANUARY 2015

Inglewood NFL Stadium Approved by Initiative

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Questions?

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MITIGATION OF CULTURAL RESOURCE IMPACTS THROUGH DOCUMENTATION.

Below is a very detailed and thorough sample of HABS, HAER or HALS documentation mitigation. It is one of many feasible ways to mitigate some impacts to cultural resources identified in environmental documents.

HISTORICAL DOCUMENTATION:

Require the project sponsor to document the MEANINGFUL-PLACE and its setting through the HABS format below. This documentation shall include large format photographs, an historical narrative and drawings (if applicable) as outlined below, developed in consultation with the LEAD-AGENCY.

LARGE FORMAT PHOTOGRAPHY:

Prior to issuance of any permits, photographic documentation of the MEANINGFUL-PLACE shall be prepared to the National Park Service's Historic American Buildings Survey (HABS) standards. HABS standards require large-format black-and-white photography, with the original negatives having a minimum size of 4"x5". The photographer must be familiar with the recordation of historical resources in accordance with HABS guidelines, and digital photography, roll film, and manipulation of images are not acceptable. A minimum of REASONABLE NUMBER OR RANGE photographs must be taken, detailing the site, building exteriors, building interiors and context to HABS level I, II, or III standards (choose appropriate level from HABS guidelines).

PROVIDE PERTINENT DETAILS HERE SUCH AS: "INCLUDE THE RETAINING WALLS/ABUTMENTS, INTERIOR AND EXTERIOR RAILINGS, DECK, APPROACHES TO THE BRIDGE, AND ANY REMNANT STRUCTURAL ELEMENTS THAT MAY BE FOUND AFTER DEWATERING THE CREEK CHANNEL". IF THE INTERIOR IS ALTERED PERHAPS ONLY ONE INTERIOR VIEW IS NEEDED. IF THERE IS ONLY ONE FACADE IN A DOWNTOWN ROW, PERHAPS ONLY ONE FACADE VIEW. EACH RESOURCE REQUIRES A NUMBER AND LIST OF VIEWS SPECIFIC TO THE SITE.

Photographs should include context views of the site, views of character defining features, exterior elevations of significant façades, views of interior spaces, and detailed views of specific materials or elements. Overgrowth and board-up plywood shall be removed by the project sponsor prior to photography at the direction of the photographer.

SITE SPECIFIC CONSTRAINTS LIKE SNOW, HIGH TEMPERATURES, ACCESS ISSUES, SECURITY CLEARANCES, BRUSH, DEBRIS, STORAGE CONTAINERS AND VEHICLES THAT OBSCURE THE RESOURCE OR OBSTRUCTIONS SUCH AS BOARDED WINDOWS AND COVERED DOORS AND PENETRATIONS CAN BE NOTED HERE IF KNOWN.

Photographs must include a photo index, photo sketch plans and field notes, and be identified and labeled using HABS standards outlined in *Preparing HABS/HAER/HALS Documentation - Transmittal Guidelines**. A draft laser copy (or digital PDF) of the finished survey formatted to the photo index is required for review by the LEAD-AGENCY prior to final archival prints being made. A copyright release form signed by the photographer releasing copyright of the large format photographs into the public domain for public benefit is required with the deliverables.

RESOURCES BEING RETAINED UNALTERED MAY BE PHOTOGRAPHED TO HABS LEVEL III, WHILE ANY BUILDINGS BEING RESTORED, ALTERED OR DEMOLISHED SHOULD BE DOCUMENTED TO HABS LEVEL I OR II (AS APPROPRIATE).

HISTORICAL REPORT:

In consultation with the LEAD-AGENCY, an historian or architectural historian, meeting the Secretary of the Interior's Professional Qualification Standards, shall assemble historical background information, drawings, maps, and historic photographs relevant to MEANINGFUL-PLACE and its setting to HABS historic report standards. The historic report will be formatted to Historic American Buildings Survey Guidelines for Historical Reports.

PHOTO DUPLICATION: (IF NECESSARY)

Historical photos and documents of the MEANINGFUL-PLACE shall be copied on large format film (4"x5" or larger) to Historic American Buildings Survey (HABS) standards. A REASONABLE NUMBER OR RANGE of photographic copies will be made of relevant historical images and documents if appropriate. Photographic copies must be included in the photo index and be identified and labeled using HABS standards. When the historic image is readily accessible from an archival repository or library do not include a large format copy in the "formal" documentation, simply reference in the report's Sources of Information section.

HISTORIC DOCUMENTS NOT DUPLICATED ON LARGE FORMAT CAN AND SHOULD BE SCANNED AND USED IN THE HISTORICAL REPORT.

MEASURED DRAWINGS: (IF NECESSARY)

Significant existing historic drawings of the MEANINGFUL-PLACE if available, shall be photographed with large-format negatives or shall be reproduced full scale on Vellum to HABS Guidelines. In the absence of adequate archival drawings, a preservation architect, meeting the Secretary of the Interior's Professional Qualification Standards, shall produce full-size measured drawings of the building's plan and significant exterior elevations. Overgrowth and board-up plywood shall be removed by the project sponsor prior to fieldwork at the direction of the field measuring team.

MORE DRAWINGS OR SPECIFIC DRAWINGS INCLUDING PROCESS DRAWINGS, OBLIQUES OR OTHER VARIATIONS MAY BE NEEDED IF APPLICABLE.

ARCHIVING:

Two copies of the finished Historic Report, full size measured drawings and photographs with negatives shall be delivered. One to the *Historic American Buildings Survey* administered by the National Park Service in Washington DC and one to the HABS collection at the *California Historical Society* in San Francisco. Duplicate archival laser-copies (on acid-free paper) of the report, drawings and photographs shall be submitted to the LEAD-AGENCY and LOCAL-LIBRARY and LOCAL-HISTORICAL-SOCIETY. In summary two (2) full sets of survey prints, negatives, full size drawings and report and three (3) duplicate archival copies of surveys are required.

WHEN APPLICABLE, DUPLICATE ARCHIVAL COPIES OF SURVEYS SHOULD ALSO BE SUBMITTED TO SPECIAL REPOSITORIES OR ARCHIVES SUCH AS: TRIBAL CENTERS, RAILROAD, AEROSPACE, OR MARITIME MUSEUMS, HISTORIC INFO CENTERS, ETC. THIS ENSURES THE DOCUMENTATION BECOMES A FUNCTIONAL MITIGATION THROUGH PUBLIC BENEFIT AND WIDESPREAD ACCESSIBILITY. ADDITIONALLY, THE PROJECT SPONSOR MAY WANT A DUPLICATE COPY.

THE ACID-FREE ARCHIVAL COPIES MAY BE BOUND AS DIGITAL-PRINTED BOOKS FOR EASY ACCESSIONING INTO COLLECTIONS.

LESS COMPREHENSIVE ARCHIVING: IF THE LEVEL OF SIGNIFICANCE IS LOWER AND THERE IS CONSENSUS THAT THE RESOURCE IS ONLY LOCALLY SIGNIFICANT OR LOCAL DISSEMINATION IS DESIRED, THE ARCHIVING AND NUMBER OF COPIES ABOVE MAY BE SCALED BACK. MINIMUM MITIGATION IS ONE FINAL FINISHED HISTORIC REPORT + FULL SIZE MEASURED DRAWINGS + PHOTOGRAPHS WITH NEGATIVES TO THE MOST ACCESSIBLE LOCAL ARCHIVE THAT CAN PROPERLY CARE FOR NEGATIVES AND PHOTOGRAPHS. DUPLICATE ARCHIVAL LASER-COPIES OF THE REPORT, DRAWINGS AND PHOTOGRAPHS SHALL BE SUBMITTED TO THE LEAD-AGENCY AND LOCAL ARCHIVES. BUT IT SHOULD BE NOTED THAT MANY LOCAL SOCIETIES AND LIBRARIES CANNOT PROPERLY

STORE FILM OR ENSURE PUBLIC BENEFIT THROUGH PERPETUAL ACCESSIBILITY. IN MANY CASES, DONATION OF THE FULL SURVEY TO THE HABS COLLECTION IS THE BEST SINGLE PLACE TO HAVE THE NEGATIVES, PRINTS AND DRAWINGS IN PERPETUAL COLD STORAGE WITH NATIONWIDE ONLINE ACCESSIBILITY FOR ANYONE.

Mitigation Schedule Notes. Photography of the resource is best accomplished as early in the process as possible before any changes occur to the resource. The time frame for photo fieldwork and photographic film processing and printing can stretch out to months depending on the reviews required. The measured drawings also require access as early as possible to the resource for field teams to measure the site. Survey must be complete before any alterations occur on the property.

Proof of submittal and receipt of donated reports to HABS/Cal Historic Society/Libraries shall be submitted to the lead agency before any of these thresholds:

- Prior to issuance of demolition or construction permits or prior to construction activity.
- Prior to any building permits application.
- Prior to any project-related rehabilitation.
- Prior to work on ADA improvements.
- HALS may use prior to the start of any ground disturbance.

If the cultural resource you are mitigating is a building or complex of buildings use **HABS**.

- If the historic resource is a bridge, ship, tunnel, flume, mine or engineering structure the proper documentation program would be the **Historic American Engineering Record (HAER)**.
- If the historic resource is a cemetery, garden statue park or cultural landscape the proper documentation program would be the **Historic American Landscapes Survey (HALS)**.

Insert the proper descriptor: **HAER** or **HALS** into the mitigation as needed; no other aspects of the documentation or formatting from **HABS** are worth noting in the mitigation description.

NOTE: IF THE DOCUMENTATION IS NOT SENT TO THE NATIONAL PARK SERVICE COLLECTIONS DO NOT USE THE HABS LETTERING OR NUMBERING. ONLY DOCUMENTATIONS OFFICIALLY RECEIVED BY HABS, HAER OR HALS MAY CARRY THOSE IDENTIFIERS.

Draft by Stephen D. Schafer
www.HABSPHOTO.com
May 2014

*Preparing HABS/HAER/HALS Documentation -
Transmittal Guidelines available at:
<http://www.nps.gov/history/hdp/standards/Transmittal.pdf>