



# CITY OF CARSON

## PLANNING COMMISSION STAFF REPORT

NEW BUSINESS DISCUSSION: April 26, 2011  
SUBJECT: Workshop to discuss Zoning Ordinance  
APPLICANT: City of Carson  
REQUEST: Workshop to discuss the organization and layout of the Zoning Ordinance and possible improvements to provide for consistency and proper procedures in implementation  
PROPERTIES INVOLVED: Citywide

---

### COMMISSION ACTION

Concurred with staff  
 Did not concur with staff  
 Other

### COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
		Chairman Faletogo			Gordon
		Vice-Chair Park			Saenz
		Brimmer			Schaefer
		Diaz			Verrett
		Goolsby			

***Item No. 12A***

I. **Introduction and Discussion**

This workshop is meant as an educational tool to reinforce commissioners' understanding of the Zoning Ordinance found in the Carson Municipal Code (CMC) and to discuss opportunities that would improve the city's land use regulations so that proper implementation is done and consistent procedures are used.

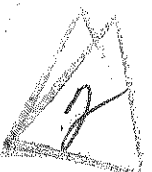
Currently, staff has been reviewing the Zoning Ordinance to identify areas that need refinement. It is anticipated that an errata to the Zoning Ordinance be brought to the Planning Commission at a later date to clean up the sections. Staff may present the sections to the Planning Commission individually to avoid overwhelming it with an abundance of topics spread throughout the Zoning Ordinance.

It is anticipated that this workshop will generate discussion to help guide staff in areas of the Zoning Ordinance that need improvement or revisions. Commissioners are encouraged to raise issues of concern with the Zoning Ordinance to help foster the discussion.

**Zoning Ordinance**

The Zoning Ordinance was adopted by the city through Ordinance No. 77-413 on October 3, 1977. The Zoning Ordinance is found in Chapter 1 of the Article IX of the Carson Municipal Code. It is enacted pursuant to the California Planning and Zoning Law, Sections 65800-65912, of the Government Code. The purpose of the Zoning Ordinance is to serve the public health, safety, and general welfare by establishing land use districts and regulations for the development and use of land in accordance with the Carson General Plan. The Zoning Ordinance ensures the orderly growth and development of Carson for the maximum benefit of its citizens.

The Zoning Ordinance includes the Zoning Map which shows the various zoning districts throughout the city. There are four (4) basic categories of zoning districts: residential, commercial, industrial, and open space/special use. Parts 2, 3, 4 and 5 of the Zoning Ordinance contain most of the regulations applicable within each of the zoning district categories. Parts 6, 7, 8 and 9 of the Zoning Ordinance contain regulations and provisions which, for the most part, are applicable to all zoning districts. Part 6 contains general development standards including those for vehicular access and parking, trash areas and signs. Part 7 provides for the procedures to be followed in administering and changing the regulations of the Zoning Ordinance. Part 8 provides for the implementation and enforcement of these regulations, including provisions for the continuation or termination of nonconformities. That is, circumstances which were lawfully established but do not comply with current regulations because of subsequent changes in the regulations. Part 9 defines various words and phrases used in the Zoning Ordinance. The Zoning Ordinance is organized as follows:



**Zoning Ordinance**  
**(Chapter 1 of Article IX of the Carson Municipal Code)**

**Parts:**

1. Introduction: Discusses the purpose, format, zoning classifications, and zoning boundaries of the Zoning Ordinance
2. Residential Zones: Includes zoning districts for single-family dwellings, multiple-family dwellings, and residential agricultural uses
3. Commercial Zones: Includes zoning districts for neighborhood, general, and regional commercial uses
4. Industrial Zones: Includes zoning districts for light and heavy industrial uses
5. Open Space Zone and Special Uses: Includes areas suitable for recreational areas, natural resource areas, and special uses
6. General Development Standards: Includes regulations and provisions which, for the most part, are applicable to all zoning districts
7. Procedures: Includes procedures to be followed in administering and changing the regulations of the Zoning Ordinance
8. Implementing Provisions: Includes provisions for the implementation and enforcement of regulations, including provisions for the continuation or termination of nonconformities
9. Definitions: Includes various words and phrases used in the Zoning Ordinance

**II. Conclusion**

Over the years, many amendments have been made to the Zoning Ordinance to keep it up to date with current requirements or new uses. As with many legislative documents, those amendments may create conflicts or inconsistencies that were not previously considered or may not have been recognized. It is often necessary to do a follow-up errata so that inconsistencies are addressed and clerical errors are eliminated. In the process, it may be necessary to further amend sections that are either out-of-date with state or federal laws or are obsolete with the times. The Planning Commission is encouraged to participate and identify issues that may be of concern that can be remedied through future ordinance amendments.



**III. Recommendation**

That the Planning Commission:

- CONSIDER and DISCUSS the information provided for in this workshop; and
- DIRECT staff to continue to identify issues within the Zoning Ordinance that need refinement.

**IV. Exhibits**

1. Ordinance Table as of April 2010
2. The Planning Commissioner's Book, Part Nos. 1-3

Prepared by: \_\_\_\_\_  
John F. Signo, AICP, Senior Planner

Reviewed by: \_\_\_\_\_  
Sheri Repp Loadsman, Planning Officer



## Ordinance Table

Number	Passage Date	Subject
98-1135	3/17/98	Amends §§ 9122.2, 9132.8 and 9191.670, zoning (Art. IX, Ch. 1)
98-1140	6/2/98	Adds § 9167.6, signs (Art. IX, Ch. 1)
99-1171	9/7/99	Amends § 9114.1, zoning (Art. IX, Ch. 1)
00-1195	4/18/00	Amends § 9114.1, zoning (Art. IX, Ch. 1)
00-1205	7/18/00	Amends § 9114.1, zoning (Art. IX, Ch. 1)
01-1223	4/17/01	Amends subsection (C) and adds subsection (F) to § 9173.22, zoning (Art. IX, Ch. 1)
01-1225	5/15/01	Amends §§ 9121.1, 9126.7, 9136.7 and 9146.7, fireworks (Art. IX, Ch. 1)
01-1227	5/01/01	Amends § 9126.29, encroachments (Art. IX, Ch. 1)
01-1231	7/10/01	Adds § 9191.416; amends §§ 9138.5 and 9182.21(C), zoning (Art. IX, Ch. 1)
01-1237	12/18/01	Amends §§ 9141.1 and 9146.7, zoning (Art. IX, Ch. 1)
02-1240	1/22/02	Amends § 9114.1, zoning (Art. IX, Ch. 1)
02-1242	2/19/02	Amends § 9114.1, zoning (Art. IX, Ch. 1)
02-1245	2/19/02	Adds § 9138.71; amends §§ 9113.2, 9131.1 and 9136.7, zoning (Art. IX, Ch. 1)
02-1247	3/6/02	Amends § 9114.1, zoning (Art. IX, Ch. 1)
02-1251	7/2/02	Amends §§ 9131.1 and 9162.21, transient hotels/motels (Art. IX, Ch. 1)
02-1252	9/3/02	Amends zoning map (Art. IX, Ch. 1)
03-1272	2/4/03	Adds § 9167.7; amends § 9146.7(A)(12), outdoor advertising signs (Art. IX, Ch. 1)
03-1279	2/4/03	Adds §§ 9138.15 and 9182.21(G); amends §§ 9113.1, 9131.1, 9132.2, 9132.4, 9133, 9135.2, 9135.4, 9136.12, 9136.23, 9136.24, 9136.25, 9136.29, 9136.3, 9136.6, 9136.7(B) and (C), 9136.9, 9137.1, 9138.11(A)(5), 9138.12(A)(5) and (E)(4), 9138.13(B)(1), 9162.21(C) and 9182.22, zoning (Art. IX, Ch. 1)
03-1284	6/17/03	Amends §§ 9121.1, 9131.1, 9138.16, 9141.1, 9172.23(B) and 9182.22(A), zoning (Art. IX, Ch. 1)
03-1285	7/15/03	Amends § 9114.1, zoning (Art. IX, Ch. 1)
03-1290	10/21/03	Adds §§ 9122.8, 9125.6, 9191.208, 9191.219 and 9191.391; amends §§ 9122.1, 9122.2, 9125.5, 9162.21, 9182.3 and 9182.22, second dwelling units and accessory structures (Art. IX, Ch. 1)
04-1305	2/3/04	Amends § 9114.1, zoning (Art. IX, Ch. 1)
04-1308	12/21/04	Adds §§ 9148.9, 9182.27 and 9191.699; amends §§ 9141.1, 9182.21, 9182.22 and 9191.698, truck terminals and truck yard facilities (Art. IX, Ch. 1)
04-1322	10/5/04	Adds §§ 9131.13(E), 9162.21(C)(13) and 9182.26; amends §§ 9131.1, 9132.2, 9133, 9138.12, 9138.2, 9138.21 and 9182.22, vehicle repair (Art. IX, Ch. 1)
05-1331	2/15/05	Amends § 9114.1, zoning (Art. IX, Ch. 1)
05-1336	4/5/05	Amends § 9114.1, zoning (Art. IX, Ch. 1)
05-1338	8/2/05	Amends § 9114.1, zoning (Art. IX, Ch. 1)
06-1349	6/7/06	Adds §§ 9138.91, 9138.92 and definitions for "massage service" and "tattoo service" in Part 9 of Ch. 1 of Art. IX; amends §§ 9131.1, 9133, 9141.1, 9182.22.A and 9191.016, zoning (Art. IX, Ch. 1)
06-1350	6/7/06	Approves zone change [§ 9114.1] (Art. IX, Ch. 1)

EXHIBIT NO. 1



Number	Passage Date	Subject
06-1353	6/7/06	Adopts zone change [§ 9114.1]; amends technology center specific plan (Art. IX, Ch. 1)
06-1358	10/17/06	Adds §§ 9209.1 – 9209.6; repeals § 9201.7.3, mobilehome park residential conversions (Art. IX, Ch. 2)
06-1363	12/13/06	Adds § 9138.17; amends §§ 9113.1, 9131.1, 9133, 9135.2, 9135.3, 9135.4, 9136.12, 9136.23, 9136.24, 9136.25, 9136.7, 9162.21, 9182.21, 9182.22, 9182.24 and 9182.26, Mixed-Use – Carson Street Zone (Art. IX, Ch. 1)
06-1364	12/13/06	Approves zone change [§ 9114.1] (Art. IX, Ch. 1)
06-1369	12/19/06	Approves zone change [§ 9114.1] (Art. IX, Ch. 1)
07-1370	2/6/07	Approves zone change [§ 9114.1] (Art. IX, Ch. 1)
07-1391	12/18/07	Approves zone change [§ 9114.1] (Art. IX, Ch. 1)
07-1392	12/4/07	Adds § 9138.18; amends §§ 9113.1, 9131.1, 9133, 9135.2, 9135.3, 9135.4, 9136.12, 9136.23, 9136.24, 9136.25 and 9136.7, Mixed-Use – Sepulveda Boulevard Zone (Art. IX, Ch. 1)
07-1393	12/4/07	Approves zone change [§ 9114.1] (Art. IX, Ch. 1)
07-1395	1/15/08	Approves zone change [§ 9114.1] (Art. IX, Ch. 1)
08-1400	3/4/08	Amends § 9138.12(A), automobile service stations (Art. IX, Ch. 1)
08-1401	2/19/08	Amends §§ 9209.1 and 9209.3, mobilehome park residential conversions (Art. IX, Ch. 2)
08-1403	4/15/08	Amends § 9138.17(D)(6), Mixed-Use – Carson Street (Art. IX, Ch. 1)
08-1404	4/15/08	Amends §§ 9131.1, 9133 and 9138.15(C)(3), uses permitted (Art. IX, Ch. 1)
08-1406	5/6/08	Approves zone change [§ 9114.1] (Art. IX, Ch. 1)
08-1407	5/6/08	Approves zone change [§ 9114.1] (Art. IX, Ch. 1)
08-1410	7/23/08	Adds § 9191.391.5, medical marijuana dispensaries (Art. IX, Ch. 1)
08-1413	10/21/08	Adds §§ 9122.9, 9138.72 and 9182.31, sex offender residency restrictions (Art. IX, Ch. 1)
08-1413U	9/2/08	Adds §§ 9122.9, 9138.72 and 9182.31, interim sex offender residency restrictions (Art. IX, Ch. 1)
08-1414U	10/7/08	Extends Ord. 08-1413U, interim sex offender residency restrictions (Art. IX, Ch. 1)
09-1419	4/21/09	Adds §§ 9182.28, 9191.084, 9191.176 and 9191.456; amends §§ 9131.1, 9138.17(1) [9138.17(C)(2)], 9138.18(C)(2), 9141.1 and 9182.22, payday loan establishments (Art. IX, Ch. 1)
09-1420	4/7/09	Amends §§ 9131.1, 9138.17(C)(1) and 9182.25, churches, temples or other places of worship within the MU-CS zone (Art. IX, Ch. 1)
09-1421	3/4/09	Amends §§ 9136.7(C)(1) and 9138.8, tent events and temporary business signs (Art. IX, Ch. 1)
09-1426	7/7/09	Amends §§ 9121.1, 9123 and 9126.21, parking structures within RM-25 zone (Art. IX, Ch. 1)
09-1430U	9/1/09	Amends § 9138.16(C), interim wireless telecommunications facilities provisions (Art. IX, Ch. 1)
09-1434	11/17/09	Amends §§ 9141.1 and 9146.7, zoning (Art. IX, Ch. 1)
09-1436U	10/7/09	Extends Ord. 09-1430U, interim wireless telecommunications facilities provisions (Art. IX, Ch. 1)
10-1441	2/16/10	Approves zone change [§ 9114.1] (Art. IX, Ch. 1)

6



Part One

# The Planning Commission

## Four Basic Questions

### 1. *What is the planning commission?*

It is a permanent committee of 5 or more citizens who have been appointed by the city council (or the mayor in some cities) or county board of supervisors to review matters related to planning and development. A commission holds public hearings on a regular schedule (in some jurisdictions, as often as once a week) to consider land use matters. These include such things as the local general plan, specific plans, rezonings, use permits, and subdivisions. Commissioners serve at the pleasure of the council or supervisors, so commission membership changes in response to changes in those bodies.

The commission is the city council's or county board of supervisors' advisor on land use planning. The council or board may choose to follow the recommendations of the commission or not. Accordingly, they may reverse or modify commission actions or send proposals back to the commission for further review. In addition, commission decisions are subject to appeal to the council or board. The council and board have the final say in all city and county matters, respectively.

Because the commission focuses on planning issues, it is a valuable intermediary between the public and the city council or county board of supervisors. When matters run smoothly, the commission has a low profile. However, when there is a controversy, it is there, in the thick of things, doing its best to sort through the facts and make a good decision.

### 2. *Why have a planning commission?*

The idea of appointing a group of laymen to make decisions and recommendations about land use planning originated at the turn of the century. Government reformers, seeking to take local government out of the hands of party "machines," reorganized administrative procedures in an attempt to reduce political influence on decisions. One solution was to create a planning commission, made up of appointed citizens, that would be responsible for setting the community's development direction.

California law does not require each city and county to have a planning commission. Nonetheless, almost all do. In those jurisdictions that don't, Kern County for example, the city council or county supervisors considers planning matters directly. On the other hand, some jurisdictions, such as Sacramento County, think that planning commissions are so useful they have two.

### 3. *How does it relate to the planning department?*

The city or county planning department is the commission's research staff. The planners can advise the commission on the general plan, specific plans, zoning ordinance, subdivision ordinance and other land use regulations. In addition, they provide background information and recommendations on the proposals that are under the commission's consideration, answer technical questions, and make sure that meetings have been properly advertised in advance. A planning department staff member will always be in attendance at commission meetings. Other attendees may include representatives of the city attorney's or county counsel's office and of the public works department.

### 4. *What does it do?*

EXHIBIT NO. 2 -



Cities and counties "plan" in order to identify important community issues (such as the direction of growth, housing needs, and environmental protection), project future demand for services (sewers, roads, fire protection, etc.), address potential problems (such as overloaded sewers or crowded roads), and establish goals and policies for directing and managing future development.

The city council or county supervisors may assign any or all of the following tasks to its planning commission (Government Code sections 65103, 65401, 65402):

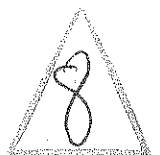
- Assist in writing the general plan and community or specific plans and hold public hearings on such plans;
- Hold hearings and act upon proposed amendments to the general plan and community or specific plans;
- Hold hearings and act upon proposed changes to the zoning ordinance and zoning maps;
- Hold hearings and act on tentative subdivision maps;
- Annually review the jurisdiction's capital improvement program and the public works projects of other local agencies for consistency with the general plan;
- Promote public interest in the general plan;
- Consult with and advise public officials and agencies, utilities, organizations and citizens regarding implementation of the general plan;
- Coordinate local plans and programs with those of other public agencies;
- Report to the legislative body on the conformity of proposed public land acquisition or disposal with the adopted general plan; and,
- Undertake special planning studies as needed.

Commissioners can learn about their commission's particular responsibilities by asking the planning department and referring to their local zoning and subdivision ordinances.

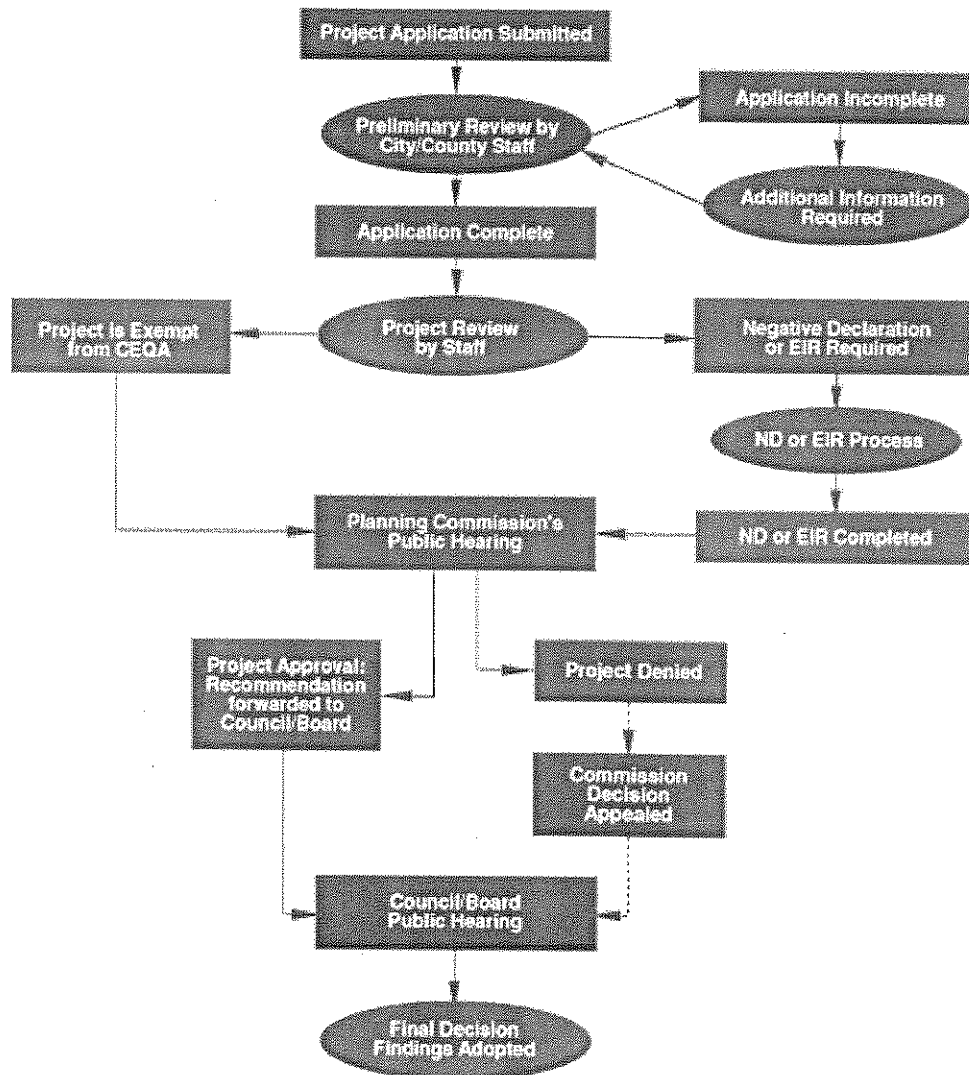
---

Figure 1

### Development Project Flow Chart







**Note:** Local procedures may vary. Negative Declaration and EIR documents vary in processing time.

## Meetings

The planning commission holds meetings -- lots of them. State law requires public hearings before planning actions are taken. At its regularly scheduled hearings, the planning commission weighs planning proposals in light of state and local regulations and potential environmental effects and listens to testimony from interested parties. If necessary, the commission may continue a hearing to a later time to allow more information to be gathered or to take additional testimony. The commission usually considers several items at each hearing; considering each proposal separately and taking action before moving on to the next item on the agenda.

Depending upon local ordinance provisions, the commission's decision on a project may be: (1) referred to the city council or board of supervisors as a recommendation for action (this is common for general plan amendments and rezonings); or (2) considered a final action unless appealed to the council or board (this is common for subdivisions, variances, and use permits). The council or board will hold a noticed public hearing on the projects referred to it by the commission (or received on appeal).

Pursuant to the Ralph M. Brown Act (Government Code section 54950), all meetings, including study sessions and workshops, must be open and public. This means that a quorum of commissioners can only



discuss commission business in a public meeting. Furthermore, meeting agendas must be posted at least 72 hours in advance and topics are limited to those on the agenda. For more information on the Brown Act see *California Land Use and Planning Law*, by Daniel J. Curtin, Jr., and *Open and Public: A Users Guide to the Ralph M. Brown Act*, published by the League of California Cities.

## Notice

In counties and general law cities, the planning commission must publish advance notice of general plan, specific plan, zone change, conditional use permit, variance, and subdivision public hearings in a newspaper of general circulation. Notice of proposed general plan and specific plan adoption or amendment must be mailed directly to the involved property owners. When a zone change, conditional use permit, variance or subdivision is involved, notice must also be mailed to the owners of property within 300 feet of the project boundaries. Charter cities may adopt different notification procedures than the above.

## The Chairperson

The commission chairperson is responsible for making sure that meetings proceed in a fashion conducive to rational decisionmaking. The chair must be familiar with the commission's procedures and with the agenda items to be discussed at each meeting. The chairperson sets the tone of the hearing, keeps the discussion on track, encourages fairness, moderates and contributes to discussions, and helps direct testimony to the issues at hand. The chairperson will usually:

### Open the meeting.

- Explain why the meeting is being held.
- Review the agenda and note any changes thereto.
- Review the procedures, rules and time limits to be in effect.

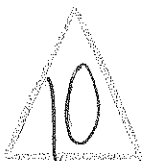
### Moderate discussion.

- Describe, or ask staff to describe, the item to be discussed.
- Ask that speakers identify themselves and take turns when giving testimony.
- Ask speakers to limit themselves to new testimony.
- Ask that commission members wait to be recognized prior to speaking.
- Intervene when necessary to prevent more than one speaker from talking at one time.
- Ask staff for information or clarification, as necessary.
- Intervene when speakers ramble or get away from the issues.
- Close the meeting to testimony prior to deliberations.

### Lead deliberations.

- Summarize the issues.
- Ask for input from the commission as a whole.
- Ask for more information from staff if necessary.
- When commissioners disagree, assist them in expressing their various concerns.
- When a motion is proposed, make sure that it is stated understandably and in full before a vote is taken.
- Encourage the commissioners to make timely decisions.
- Make sure that findings are adopted when required.

## An Important Lesson - "Be Prepared"



Prior to every hearing, each of the commissioners should have reviewed the items on the meeting agenda. This means reading the staff report and environmental assessment document, looking at the general plan and zoning ordinance sections pertinent to the particular project, and asking questions of the planning staff when necessary.

At the hearing, commissioners should be able to both ask and answer questions about the project, its relationship to the general plan and to the zoning or subdivision ordinances, and its potential impacts on the community. If legal questions arise, don't be afraid to ask the city attorney or county counsel for his/her opinion. Don't take legal advice from anyone but the city's or county's own lawyer.

## Recipe for an Effective Planning Commission

Effective planning commissions share certain qualities. These include:

- **Ability to focus on the subject under consideration.** Focusing means not being distracted by personalities, groups or issues that do not have anything to do with the agenda item being discussed.
- **A clear view of the big picture.** A good commission has the aggregate ability to identify the main points of an issue and to concentrate on addressing those. Keeping the big picture in mind is important so that the commission doesn't bog down in excessive attention to minor detail.
- **Established rules for conducting meetings.** These needn't be as formal as Robert's Rules of Order, but they should define the responsibilities of the chairperson, the other commissioners, and the staff. They should also establish the rules for testimony, such as the length of time available, speaker identification, etc.
- **Effective leadership.** An effective chairperson assists the flow of ideas and helps keep the proceedings on track.
- **Informed commissioners.** Prior to the hearing, commissioners should have read the staff reports, reviewed the pertinent sections of the general plan, zoning ordinance or other codes, and looked through the environmental assessment pertinent to each agenda item.
- **Attention to legal requirements.** A commissioner must keep basic legal requirements in mind. Among them: Is the proposal consistent with the general plan? Does it meet all applicable zoning or subdivision ordinance requirements? Are the environmental impacts of the project, if any, being reduced or eliminated by the conditions of approval? Is the commission's decision supported by findings of fact based on substantial evidence in the record? When in doubt, ask the city attorney or county counsel for their advice.
- **An open flow of ideas.** The chairperson and the other commissioners share responsibility for seeing that there is a continuing flow of ideas and discussion among all parties, including applicants, staff, members of the public, and the commissioners themselves. Be objective and ask questions.
- **A sense of pace.** The chair should be able to recognize that point in time at which testimony must be closed off so the commission can deliberate. Commissioners should hold their motions until the discussion has reached its conclusion. Both the chair and the other commissioners should know whether to continue a hearing or to make a decision.

---

## The Commissioner's "Survival Kit"

Commissioners should bring the following to every meeting:

- The meeting agenda.
- Staff reports and environmental documents for each of the projects to be considered.
- A copy of the general plan.



- A copy of the zoning ordinance.
  - If subdivisions are to be considered, a copy of the subdivision ordinance.
  - A pad of paper and pencils.
- 

Back to [Table of Contents](#)

Next: [The Legal Side of Planning](#)

---

State of California

**Governor's Office of Planning and Research**

1400 Tenth Street  
Sacramento, CA 95814  
916-445-0613





## Part Two

# The Legal Side of Planning

Countless volumes have been written about the legal basis for planning and all the court decisions on the subject. This paper is too brief to go into more than just the bare outline of some of planning's legal side. Commissioners should rely upon the city attorney or county counsel for detailed legal opinions. In addition, several books in the reference section of this publication have good discussions of planning law.

## The Police Power

Planning and the regulation of land use are based upon local government's "police power." The courts have held that the police power may be used to regulate a wide and expanding variety of activities as long as it is exercised in a manner that is reasonably related to the protection of the public's health, safety, and welfare, is not preempted by federal or state law, and is within the framework of state statute. Community planning, zoning laws, subdivision regulations, rent controls, sign controls, community growth management regulations, and dedications of private land as a condition of development approval are some examples of the police power at work. Constitutional guarantees of equal protection, free speech, due process, and just compensation for the taking of private property define the boundaries of the police power. An illegal "taking" may occur as a result of either the public's acquisition of private property without just compensation or of excessively restrictive land use regulations that deprive a property owner of all uses of his/her land.

## Findings

Planning commission decisions must be based on a rational decision-making process. Often, the commission must adopt written "findings" explaining the factual reasons for its decision. A finding is a statement of fact relating the information that the commission has considered to the decision that it has made. If a decision is challenged in court, the findings will be used to trace the commission's reasoning and to determine whether its action was legally justified.

Findings must be supported by evidence in the hearing record (i.e., testimony, reports, environmental documents, etc.) and should not contain unsupported statements. Complete findings should be included in the commission's resolution of approval or denial. Keep in mind that findings will not rescue a decision if the commission has failed to follow the other procedures required by law.

## Some actions requiring findings:

**Zone change** -- finding of consistency with the general plan and any specific plans.

**Subdivision** -- finding of consistency with the general plan and any specific plans; findings supporting approval/denial per state and local codes.

**Specific plan adoption or amendment** -- finding of consistency with the general plan.

**Conditional use permit** -- locally required findings (if any), findings supporting approval and conditions.

**Variance** -- specific findings required by state statute.

**Design review approval** -- locally required findings (if any), findings supporting approval and

[http://ceres.ca.gov/planning/plan\\_comm/part2.html](http://ceres.ca.gov/planning/plan_comm/part2.html)



conditions.

**General plan amendment limiting the number of newly constructed dwellings** -- specific findings required by state statute.

**Adoption of a local ordinance affecting regional housing needs** -- specific findings required by state statute.

**Approval of a housing project when density is lower than that which was allowed when application was accepted** -- specific findings required by state statute.

**Projects involving an EIR** -- findings of overriding consideration, findings of significant effect.

---

Back to [Table of Contents](#)

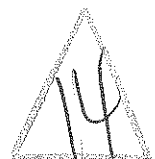
Next: [A Short Primer on State Planning Law](#)

---

State of California

**Governor's Office of Planning and Research**

1400 Tenth Street  
Sacramento, CA 95814  
916-445-0613





## Part Three

# A Short Primer on State Planning Law

### The General Plan

#### Zoning

#### Subdivisions

#### The California Environmental Quality Act

#### The Permit Streamlining Act

#### Annexation and Incorporation

The state delegates most local land use and development decisions to the cities and counties. State law requires that each of the 452 incorporated cities and 58 counties adopt "a comprehensive, long-term general plan for [its] physical development." This general plan lays the groundwork for community decisions that will affect the future location of housing, business, industry, roads, parks, and other land uses, protect the public from noise and other environmental hazards, and conserve natural resources. Each city council and county board of supervisors, upon recommendation of their planning commission, carries out its general plan through its zoning, subdivision and other ordinances.

There is no requirement that adjoining cities or counties have identical, or even similar, plans and ordinances. Each city and each county adopts its own general plan and development regulations. In turn, each is solely responsible for the planning decisions made within its jurisdiction.

## The General Plan and Zoning Are Not the Same

A general plan is a set of long-term goals and policies that the community uses to guide development decisions. Although the plan establishes standards for population density, building intensity, and the distribution of land uses, it does not directly regulate land use.

Zoning, on the other hand, is regulatory. Under the zoning ordinance, development must comply with specific, enforceable standards such as minimum lot size, maximum building height, minimum building setback, and a list of allowable uses. Zoning applies lot-by-lot, whereas the general plan has a community-wide perspective.

Put another way, the general plan is a blueprint and zoning is a tool for making it a reality. The plan is the basis for programs such as the zoning and subdivision ordinances. In turn, zoning is a means of putting into action the plan's long term goals.

## THE GENERAL PLAN

The general plan is a community's blueprint for future development. It describes a community's development goals and policies. It also forms the basis for land use decisions made by the planning commission and city council or board of supervisors.

### Contents

A general plan consists of at least two parts. There is a written text describing the community's goals, objectives, and policies toward development. There is also a map (or maps) and diagrams illustrating the



generalized distribution of land uses, the major road system, seismic and environmental hazard areas, the open space system, and other policy statements that can be illustrated (see Government Code Section 65302).

The general plan must contain at least seven components (called "elements") addressing a set of basic planning issues (see Government Code section 65302). Each city and county determines the relative importance of these issues to their local circumstances and decides how they are to be discussed in the local general plan. Jurisdictions may also adopt additional elements, at their option, covering subjects of local interest such as recreation, community design, or public facilities. See the General Plan Guidelines published by OPR for detailed information on plan contents.

State law does not require that a general plan have seven distinct and separate elements. It is quite common for a general plan to have only three or four "super-elements" which combine the essences of the seven elements. Along this same line, there is no requirement for the number of maps and diagrams that must be adopted as part of the plan. Each local government decides the specific format and organization of its general plan. Element Consolidation, by the Office of Planning and Research, gives examples of how elements may be merged and streamlined.

Although general plans are not required to follow a standard format, many contain similar features. Some of the things to look for in the written portion of your local plan are goals (abstract and general expressions of community values), objectives (specific intermediate steps in attaining a goal), policies (specific statements that guide decision making), and implementation programs (descriptions of how the goals, objectives, and policies are to be put into action). Many plans also contain background information about the community, such as population projections, traffic levels, seismic hazards, community history, and housing characteristics. Appendices to general plans often contain technical studies of seismic hazards, housing surveys, and traffic studies and forecasts.

General plans use maps and diagrams to identify the locations of proposed and existing land uses, flood hazard areas, open space lands, roads, and other features. The maps and diagrams must work together with the written portions of the plan to establish a clear view of the community's future.

### *The Seven Required Elements:*

1. **Land use element:** designates the general location and intensity of housing, business, industry, open space, public buildings and grounds, waste disposal facilities, and other land uses.
2. **Circulation element:** identifies the general location and extent of existing and proposed major roads, transportation routes, terminals, and public utilities and facilities. It must correlate with the land use element.
3. **Housing element:** assesses current and projected housing needs for all economic segments of the community and region. It identifies local housing policies and the programs that implement those policies.
4. **Conservation element:** addresses the conservation, development, and use of natural resources including water, forests, soils, rivers, and mineral deposits.
5. **Open-space element:** details plans and measures for preserving open-space for natural resources, the managed production of resources, outdoor recreation, public health and safety, and the identification of agricultural land.
6. **Noise element:** identifies and appraises noise problems within the community and forms the basis for distributing land uses.
7. **Safety element:** establishes policies to protect the community from seismic, geologic, flood, and wildfire hazards.





## Consistency

The general plan is important because it is the basis for many local land use decisions. Zoning (except in most charter cities), subdivisions, and public works projects can only be approved when they are consistent with the general plan. An action, program or project is consistent with the general plan if, considering all its aspects, it will further the goals, objectives and policies of the plan and not obstruct their attainment.

Not only must governmental actions be consistent with the general plan, the plan itself must be internally consistent. Each part of the general plan, be it a goal, policy or map/diagram, must mesh with all of the other parts of the plan. For instance, the land use element must not contain statements or assertions that conflict with the housing element. Similarly, the maps and diagrams adopted as part of the plan must agree with one another. For example, the location of a major highway on the land use element diagram must match its location on the circulation element diagram as well.

## Approving and Amending the Plan

The process of adopting or amending a general plan encourages public participation. Cities and counties must hold public hearings for such proposals. Advance notice of the place and time of the hearing must be published in the newspaper (when there is no paper, notice must be posted in the vicinity of the project site) and also mailed directly to the involved property owners. Copies of the adopted or amended plans must be available for public purchase within two days of a final decision.

Each of the general plan's seven required elements can be amended only four times per calendar year. More than one change may be considered at each of these four opportunities. Optional elements, on the other hand, can be amended at any time.

The planning commission and the city council or county board of supervisors must each hold at least one public hearing prior to approving or amending the plan. The commission will hold its hearing first and make specific recommendations to the council or board. A recommendation for approval must be made by a majority of the total membership of the commission.

The council or board will take final action on the proposals at their hearing. Approvals must be made by a majority of the total membership of the council or board. If they make substantial changes to any planning commission recommendations, those items must be sent back to the commission for further study and recommendations before a final decision is made. The commission will have 40 days in which to make any further recommendations.

## Community Plans

"Community plans" focus planning efforts on a smaller area or neighborhood. A community plan is part of the local general plan. It addresses issues pertinent to a particular area or community within the city or county and supplements the policies of the general plan. Accordingly, it must be consistent with the general plan in all respects.

## Specific Plans

A "specific plan" implements, but is not technically a part of, the local general plan. Specific plans describe allowable land uses, identify open space, and detail infrastructure availability and financing for a portion of the community. In some jurisdictions, specific plans also take the place of zoning. A specific plan must be consistent with the general plan. In turn, zoning, subdivision, and public works decisions must comply with the provisions of the specific plan. For a detailed discussion of specific plans and their contents, see OPR's *The Planner's Guide to Specific Plans* (see Part Five).



### *Amendment Considerations*

The general plan shouldn't be amended casually. In fact, state law requires that amendments only be made when "in the public interest." Commissioners should be able to answer all the following questions affirmatively when approving an amendment.

- Is the amendment in the public interest (i.e., it advances community goals, describes a community interest, etc.)?
- Is the amendment consistent with all other parts of the general plan (in other words, it doesn't conflict with any of the goals, objectives, policies maps or diagrams contained in any of the general plan's other elements)?
- If the amendment creates a "ripple effect," necessitating other changes to the plan, are those related changes being considered at the same time?
- Will the amendment necessitate changes in zoning or other ordinances and are those changes to be considered within a reasonable time?
- If a mitigated negative declaration or an EIR is adopted or certified for the amendment, have the mitigation measures been incorporated into the amendment?

---

## ZONING

The zoning ordinance regulates land uses within the community. It assigns each piece of property to a "zone" which describes the rules under which that land may be used. These classifications, such as "R-1" for single-family residences or "C-1" for commercial uses, cover in specific terms the range of uses that is discussed broadly in the general plan.

A typical zoning ordinance may describe 10 or more zone classifications. Each of these zones identifies allowable uses and sets standards such as minimum lot size, maximum building height, and minimum front yard depth. In most local ordinances, development of allowable uses does not require a public hearing. Increasingly, however, communities are requiring a public review of the project's design before a building permit is issued.

The distribution of residential, commercial, industrial, and other zones must be based on the pattern of land uses established by the community's general plan. Zoning maps illustrate how zones have been distributed.

Zoning is adopted by ordinance and carries the weight of local law. Land may be put only to those uses listed in the zone assigned to it. For example, if a commercial zone does not allow 5-story office buildings, then no such building could be built on land which has been assigned that zone.

In many communities, the planning commission is not the only body responsible for making zoning decisions. A board of zoning adjustment or a zoning administrator may be appointed to consider use permit and variance requests. Building design may be subject to approval by a design review or architectural review board. Public notice of zoning hearings must be given at least 10 days before the hearing by advertisement in a newspaper of general circulation and by direct mailing to the owners of property located within 300 feet of the proposal's boundaries.

### **Rezoning**

If a landowner proposes a use that is not allowed in that zone, then he/she must obtain a change of zone if that use is to occur. The local planning commission and the city council or county board of supervisors must hold public hearings, before property may be rezoned. The council or board is not



obligated to approve requests for rezoning and, except in charter cities, must deny such requests when the proposed zone conflicts with the general plan. Typically, zoning ordinances also provide for limited waivers to zoning regulations (variances), subject to a public hearing.

### Rezoning Considerations

Commissioners should be able to answer the following questions affirmatively when approving a rezoning.

1. Is the proposed zone consistent with all component parts of the general plan (including text and maps)?
2. Is the proposed zone and its allowable uses compatible with existing and planned uses in the area?
3. If significant environmental effects have been identified as a result of the proposed rezoning, are actions being required or programs initiated to mitigate those effects?
4. If the proposal is part of a larger project, has the entire project been addressed in the environmental analysis?

### Prezoning

Cities can "prezone" lands outside their corporate limits in the same way that they approve zoning. Prezoning is done before a city formally annexes a site in order to facilitate its transition into the city. Prezoning does not affect allowable uses, it is just a way for the city to show how the land will be zoned once it is annexed. County zoning regulations remain in effect until annexation is actually completed.

### Variances

A variance is a limited waiver of development standards. It may be granted, after a public hearing, in special cases where: (1) strict application of the zoning regulations would deprive property of the uses enjoyed by nearby lands in the same zone; and (2) restrictions have been imposed to ensure that the variance will not be a grant of special privilege. A variance must not be granted if it would permit a use that is not otherwise allowed in that zone (for example, a commercial use may not be approved in a residential zone by variance). In addition, economic hardship alone is not sufficient justification for approval of a variance.

Typically, variances are considered when the physical characteristics of the property make it difficult to use. For instance, in a situation where the rear half of a lot is a steep slope, a variance might be approved to allow a house to be built closer to the street than usually allowed.

### Variance Considerations

Commissioners should be able to answer the following questions affirmatively when approving a proposed variance.

- Are there special circumstances applicable to the proposal site (such as size, shape, topography, location or surroundings) whereby strict application of the zoning ordinance would deprive it of privileges enjoyed by nearby properties with the same zoning? Identify them specifically.
- Do the proposed conditions ensure that the approval will not be a grant of special privilege?
- Is the use for which the variance is being granted already allowed in that zone? (A variance cannot be approved if the use isn't already allowed.)
- Are the proposed conditions reasonably related to the use proposed by the variance?



See OPR's publication *The Variance* for more information.

## Conditional Use Permits (CUPs)

Some types of land uses are only allowed upon approval of a conditional use permit (also called a CUP or special use permit) after a public hearing. These uses might include community facilities (i.e., hospitals or schools), public buildings or grounds (i.e., fire stations or parks), temporary or hard-to-classify uses (i.e., Christmas tree sales), or uses with potentially significant environmental impacts (i.e., hazardous chemical storage or surface mining). The local zoning ordinance specifies the uses for which a conditional use permit is required, the zones they may be allowed in, and the public hearing procedure. When allowing a project, the CUP will impose special development requirements to insure that the use will not be detrimental to its surroundings. Requirements might include such things as additional landscaping, soundproofing, limited hours of operation, additional parking, or road improvements. A CUP does not rezone the land.

### Conditional Use Permit Considerations

Commissioners should be able to answer the following questions affirmatively when approving a conditional use permit.

- Is the site appropriate for the proposed use?
- Is the proposed use, as conditioned, compatible with its surroundings and with the uses of nearby lands?
- Is the project design, as conditioned, suited to the site?
- As conditioned, will adequate water (including fire flows), utilities, sewage disposal, drainage, roads, fire protection, and other services be provided to the project?
- If significant environmental effects have been identified as a result of the proposed CUP, have conditions been required (or the project redesigned) to mitigate those effects?
- Are the imposed conditions reasonably related to the use proposed by the CUP (i.e. they address concerns raised by 1-4 above)?

See OPR's publication *The Conditional Use Permit* for more information.

---

## SUBDIVISIONS

In general, land cannot be subdivided in California without local government approval. Dividing land for sale, lease or financing is regulated by local ordinances based on the state Subdivision Map Act (commencing at Government Code section 66410). The local general plan and the zoning, subdivision, and other ordinances govern the design of the subdivision, the size of its lots, and the types of improvements that will be required as conditions of approval.

### Subdivision Types

There are basically two kinds of subdivision: parcel maps, which are limited to divisions resulting in fewer than 5 lots (with certain exceptions), and final or tract map subdivisions, which create 5 or more lots. Local ordinances apply less stringent development standards to parcel maps than to tract maps.

### Processing



Tract maps and, where provided by local ordinance, parcel maps are approved in two stages.

1. Consideration of a "tentative map." Upon receiving an application for a tentative subdivision map, the city or county staff will examine the design of the subdivision to ensure that it meets the requirements of the general plan and the subdivision ordinance. An environmental impact analysis must be done and an advertised public hearing held before a tentative map is considered for approval. If approved, the map will be subject to conditions that the subdivider must meet within a specific time period. At this stage, while conditions remain to be met, no lots have been officially approved.
2. Approval of the "final map." When all of the conditions set out in the approved tentative map have been satisfied, and compliance certified by city or county officials, the city council or county board of supervisors will approve a final map. Unlike a tentative map, which can be denied if it does not meet city or county standards, the final map must be approved (with some exceptions) if it substantially complies with the previously approved tentative map. The subdivider may now record the map at the County Recorder's office.

Subdivision approval is conditioned upon the subdivider providing public improvements such as streets, drainage facilities, water supply or sewer lines to serve the subdivision. They may also be required to dedicate park land to the community. These improvements must be installed or secured by bond before the city or county will grant final map approval and allow the subdivision to be recorded in the county recorder's office.

Lots within the subdivision cannot be sold and are not legal divisions of land until a final map has been recorded. The subdivider has at least two years (and with extensions, usually more) in which to comply with the improvement requirements, gain final administrative approval, and record the final map.

### **Subdivision Considerations**

Commissioners should be able to answer the following questions affirmatively when approving a subdivision map.

- Is the proposed map consistent with the general plan and any applicable specific plans?
- Is the proposed design or improvement of the subdivision consistent with the general plan and any applicable specific plans?
- Is the site physically suited to the proposed type and density of development?
- Is the design of the subdivision or type of improvements unlikely to cause serious public health problems?
- Is the design of the subdivision or the proposed improvements unlikely to cause either substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat?
- Have adequate conditions been applied to the approval (or the project redesigned) to mitigate the environmental effects identified in the environmental analysis done for the project?
- Are all dedications and impact fees reasonably related to the impacts resulting from the subdivision?
- If a mitigated negative declaration or EIR have been adopted or certified for the project, have the mitigation measures identified therein been made conditions of approval or otherwise required as part of the approval?

---

## **THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The California Environmental Quality Act (commencing at Public Resources Code section 21000) requires local and state governments to consider the potential environmental effects of a project before



making a decision on it. CEQA's purpose is to disclose the potential impacts of a project, suggest methods to minimize those impacts, and discuss project alternatives so that decision-makers will have full information upon which to base their decision. CEQA is a complex law and the following discussion is extremely general. Refer to the California Environmental Quality Act Guidelines or ask your planning staff for specific information. Information is also available online at the Resources Agency's website: <http://ceres.ca.gov/ceqa>.

The role of the planning commission in the environmental review process varies among jurisdictions depending upon local environmental review procedures. In some cities and counties, the commission conducts hearings on draft environmental impact reports (note: CEQA does not require public hearings during the preparation of an environmental impact report or negative declaration, however some jurisdictions choose to hold them). In others, the commission has no active role.

## **Lead Agency**

The agency with the principal responsibility for issuing permits to a project (or for carrying out the project) is called the "lead agency." As such, it is responsible for determining whether or not a project will significantly impact the environment and, when necessary, for analyzing the project's possible environmental impacts (or contracting for this work to be done under its direction). The planning department is usually lead agency in local planning matters.

## **Analysis**

Analyzing a project's potential environmental effects is a multi-step process. Many minor projects, such as single-family homes, remodeling, and accessory structures are exempt from the CEQA requirements (for a complete list see the California Environmental Quality Act Guidelines). Exempt projects receive no environmental review.

When a project is subject to review, the lead agency prepares an "initial study" to assess the potential adverse environmental impacts. If the project will not cause a significant impact on the environment or if it has been redesigned to eliminate any impacts, a "negative declaration" is written. If significant environmental effects are identified, then an Environmental Impact Report (EIR) must be written before the project can be considered by decision makers. Upon approval of a project for which a negative declaration is adopted or an EIR certified, the city or county must also adopt a monitoring program to ensure that the mitigation measures will be completed as required.

## **Negative Declaration**

A negative declaration describes why a project will not have a significant impact and may require that the project incorporate a number of "mitigation measures" to ensure that there will be no significant impacts resulting from the project. A negative declaration cannot be used when significant impacts are not totally eliminated. Also, when a project consists of several parts, a negative declaration cannot substitute for an EIR if the total project will cause environmental impacts.

## **Environmental Impact Report (EIR)**

An EIR discusses the proposed project, its environmental setting, its probable impacts, realistic means of reducing or eliminating those impacts, its cumulative effects in the context of other development, and realistic project alternatives. CEQA requires that Negative Declarations and draft EIRs be made available for review by the public and other agencies prior to consideration of the project. The review period (a minimum of 20 days for Negative Declarations and a minimum of 30 days for draft EIRs) allows concerned citizens and agencies to comment on the contents and adequacy of the environmental document prior to its completion. The final EIR must incorporate written responses to the comments



submitted by reviewers.

In 1993, a master EIR was also included as a choice when completing an environmental assessment (AB 1888). Under this chapter, a master EIR may be prepared for a variety of projects to evaluate the cumulative impacts, growth inducing impacts, and irreversible significant effects on the environment. The review of each project is substantially reduced due to their impacts having been reviewed and mitigated in a certified master EIR.

When the city council or board of supervisors approves a project, it must certify the adequacy of the Negative Declaration or EIR. If its decision to approve a project will result in unavoidable significant impacts, as identified in the EIR, the city council or board of supervisors must state, in writing, its overriding reasons for granting the approval. In addition, when mitigation measures are adopted as a result of a negative declaration or EIR, the council or board must enact a program for reporting on or monitoring the implementation of those measures.

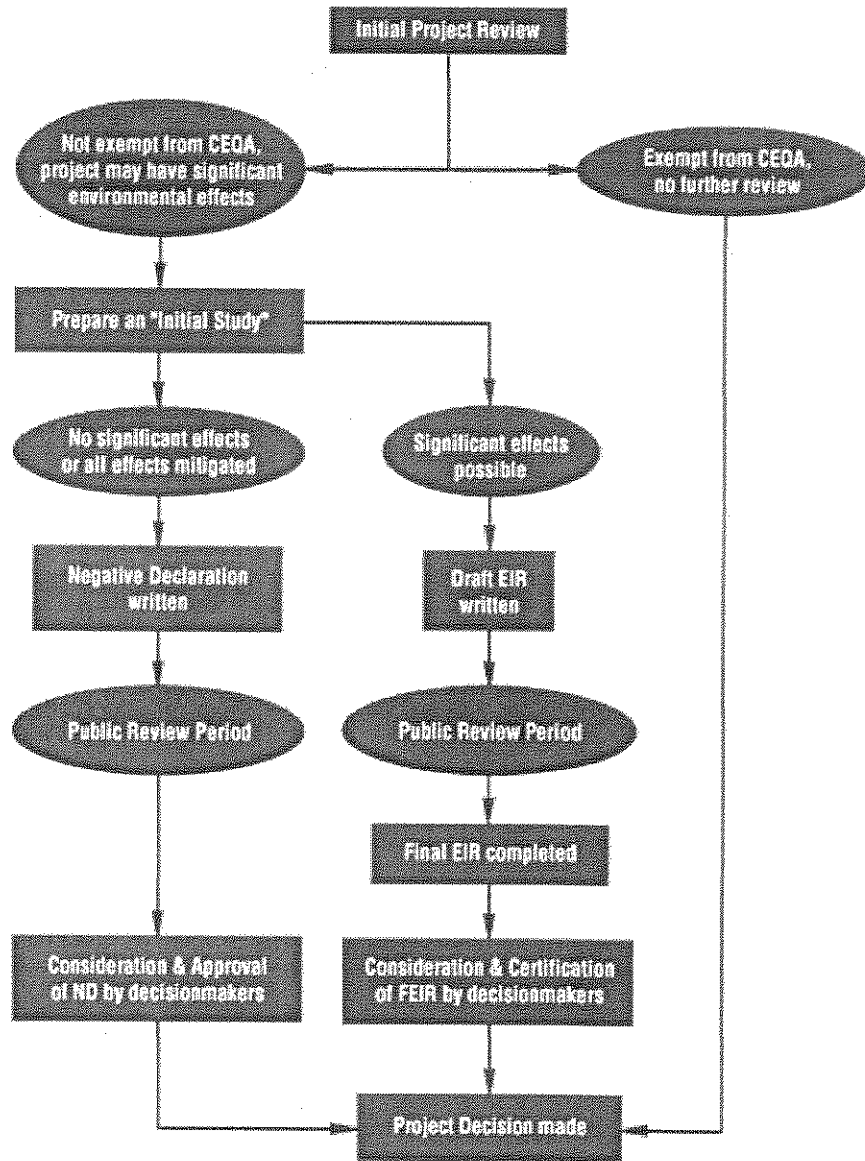
Both negative declarations and EIRs are objective, informational documents. They neither approve nor deny a project. Environmental analysis must be done as early as possible in the process of considering a project and must address the entire project. The CEQA Guidelines describes the several different types of EIRs that may be prepared. Tracking CEQA Mitigation Measures Under AB 3180 (published by the Office of Planning and Research) can help design a mitigation reporting or monitoring program.

---

*Figure 2*

### **Simplified CEQA Flow Chart**





**Note:** This chart illustrates the three common paths for project processing. Processing times and the level of complexity of Negative Declarations and EIRs are not the same.

### THE PERMIT STREAMLINING ACT

This law sets time limits for governmental action on some types of projects (see Government Code sections 65920-65963.1). Failure to act within those time limits can mean automatic approval of a project. The act applies to discretionary projects (those which the local government has the power to deny or conditionally approve) which are "adjudicative" in nature. An adjudicative decision applies existing policies and regulations to a particular situation. Use permits, subdivisions, and variances are all actions subject to the Permit Streamlining Act. The Act does not apply to the adoption or amendment of a general plan or of a zoning ordinance.

Generally speaking, local government must take action on administrative projects within 180 days of the date upon which the project's final EIR is certified. This period is 60 days when a negative declaration is adopted or the project is exempt from CEQA. A project may be automatically approved under the Act if the jurisdiction fails to make a decision within the time limit and the developer takes certain actions to provide public notice.





If you have questions about how the Permit Streamlining Act applies to a particular project, check with your planning staff or city attorney/county counsel.

---

## ANNEXATION AND INCORPORATION

The planning commission is not directly involved in the approval of annexations nor in the city incorporation process. However, these are subjects with which a planning commissioner should be generally familiar.

Annexation (the addition of territory to an existing city) and incorporation (creation of a new city) are controlled by the Local Agency Formation Commission (LAFCO) established in each county by state law. A LAFCO is made up of elected officials from the county, cities, and, in some cases, special districts. LAFCO duties include: establishing the "spheres of influence" that designate the ultimate service areas of cities and special districts; studying and approving requests for city annexations; and, studying and approving proposals for city incorporations. Following is a very general discussion of annexation and incorporation procedures. For detailed information on this complex subject, contact your county LAFCO.

### Annexation

When the LAFCO receives an annexation request, it will convene a hearing to determine the worthiness of the proposal. Annexations may be requested by affected landowners or by a city. In cases where the proposed annexation is being initiated by a city, its planning commission may be asked to study the proposal before a formal application is filed with the LAFCO.

The LAFCO will deny, approve or conditionally approve annexation proposals based on its policies and state law (for example, annexation cannot occur unless the LAFCO has adopted a sphere of influence for the city and the area proposed to be annexed is within the city's sphere). The LAFCO delegates tentatively approved annexation requests to the affected city for hearings and, if necessary, an election. Annexations which have been passed by vote of the inhabitants or which have not been defeated by protest (in those instances where no election was required) must be certified by the LAFCO and meet all its conditions before they become final. The LAFCO, not the city, has final responsibility for the annexation process.

### The Sphere of Influence

The sphere of influence is a plan for the probable ultimate physical boundaries and service area of a city or special district. The LAFCO is responsible for establishing a sphere for each city and special district in the county. The purpose of the sphere is to act as a benchmark for future annexation decisions.

Cities cannot establish their own sphere of influence. The LAFCO has sole responsibility for doing this. However, a city may request that the LAFCO amends its sphere.

Some cities use their sphere of influence as a convenient boundary for their general plan. These cities plan beyond their city limits although they usually have no actual authority over land uses in county areas. This planning anticipates the eventual annexation of land into the city.

### Incorporation

When a new city is proposed to be formed, the LAFCO studies the financial feasibility of the proposed city, its financial impact on the county and special districts, and the provision of public services. If the



proposal cannot be shown to be feasible, the LAFCO can terminate the proceedings. If the proposed city appears to be feasible, LAFCO will refer the proposal (and a set of conditions to be met upon incorporation) to the county board of supervisors for a public hearing to be held. Incorporation proceedings are terminated if the supervisors receive protests from a majority of the voters residing within the proposed city boundaries. If they do not receive a majority protest, an election will be held on the question of whether to create the city and to elect city officials.

---

Back to [Table of Contents](#)

Next: [Glossary of Common Planning Terms](#)

---

State of California

**Governor's Office of Planning and Research**

1400 Tenth Street  
Sacramento, CA 95814  
916-445-0613

