
COMMUNITY PLANNING GROUP AND SPONSOR GROUP TRAINING



Brought to you by the County of San Diego
2024

Training Agenda

Section

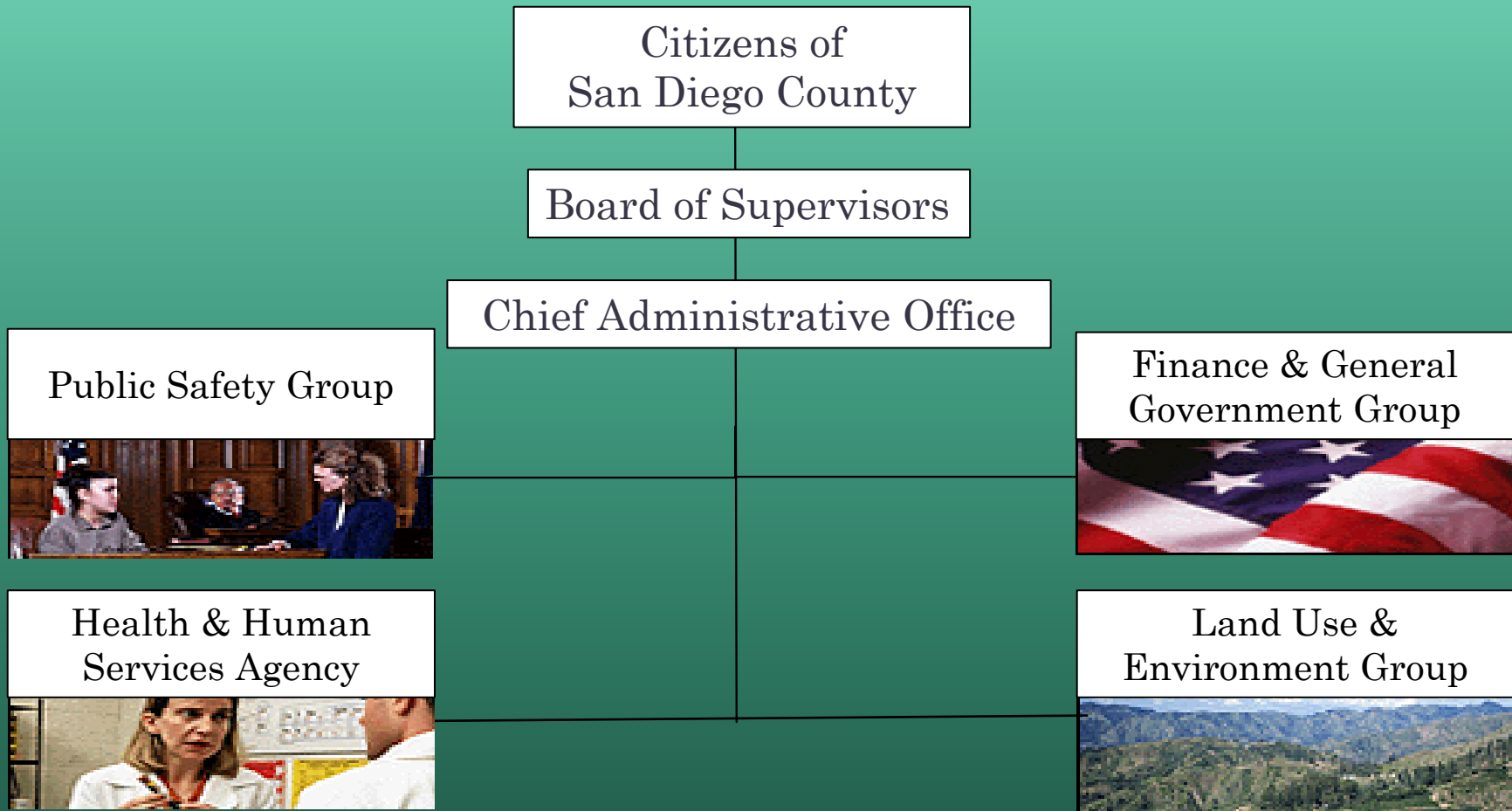
Subject Area

- | | |
|---|---|
| 1 | Ralph M. Brown Act & Public Records Act |
| 2 | Conflict of Interest & Financial Disclosure |
| 3 | Due Process & Ex Parte Contacts |
| 4 | Legal Defense & Indemnification |
| 5 | Board of Supervisors Policy I-1 |
| 6 | Planning Process |
| 7 | California Environmental Quality Act |

Training Overview

- This training will:
 - Provide you with the knowledge and tools necessary to serve effectively
 - Identify your roles and responsibilities under the Brown Act, the Public Records Act, and Board Policy I-1 requirements
- There are situational questions at the end of some sections that summarize material covered
- To satisfy your training requirement, please complete and submit the Training Completion Form, which is available at the end of the training

County's Organizational Structure



Land Use and Environment Group

Agriculture, Weights and Measures

Environmental Health & Quality

Office of Environmental & Climate Justice

Library

Parks and Recreation

Planning & Development Services

Public Works

University of California Cooperative Extension

Mission and Purpose of CPSGs

- Understand plans for new projects or developments within a community;
- Provide a public forum where community input is welcomed;
- Weigh public testimony against proposed benefits, enhancements and costs associated with a project;
- Make a recommendation that reflects the community's position to County decision makers

Who are the county's decision makers?

Depending on the nature of the project, it may be:

- The **Director of Planning & Development Services**
- The **Zoning Administrator** of the County of San Diego
- The **Planning Commission** of the County of San Diego
– seven members appointed by the Board of Supervisors
- The County's **Board of Supervisors** – five elected members

Governing Documents

Brown Act

- Identifies rules for conducting open public meetings

Political Reform Act

- Establishes rules for identifying and avoiding conflicts of interest

Policy I-1

- Establishes policy and procedures for forming and operating groups and their responsibilities

Group By-Laws

- Additional rules adopted by a Planning/Sponsor Group relating to operational procedures & member conduct

Planning vs. Sponsor Groups

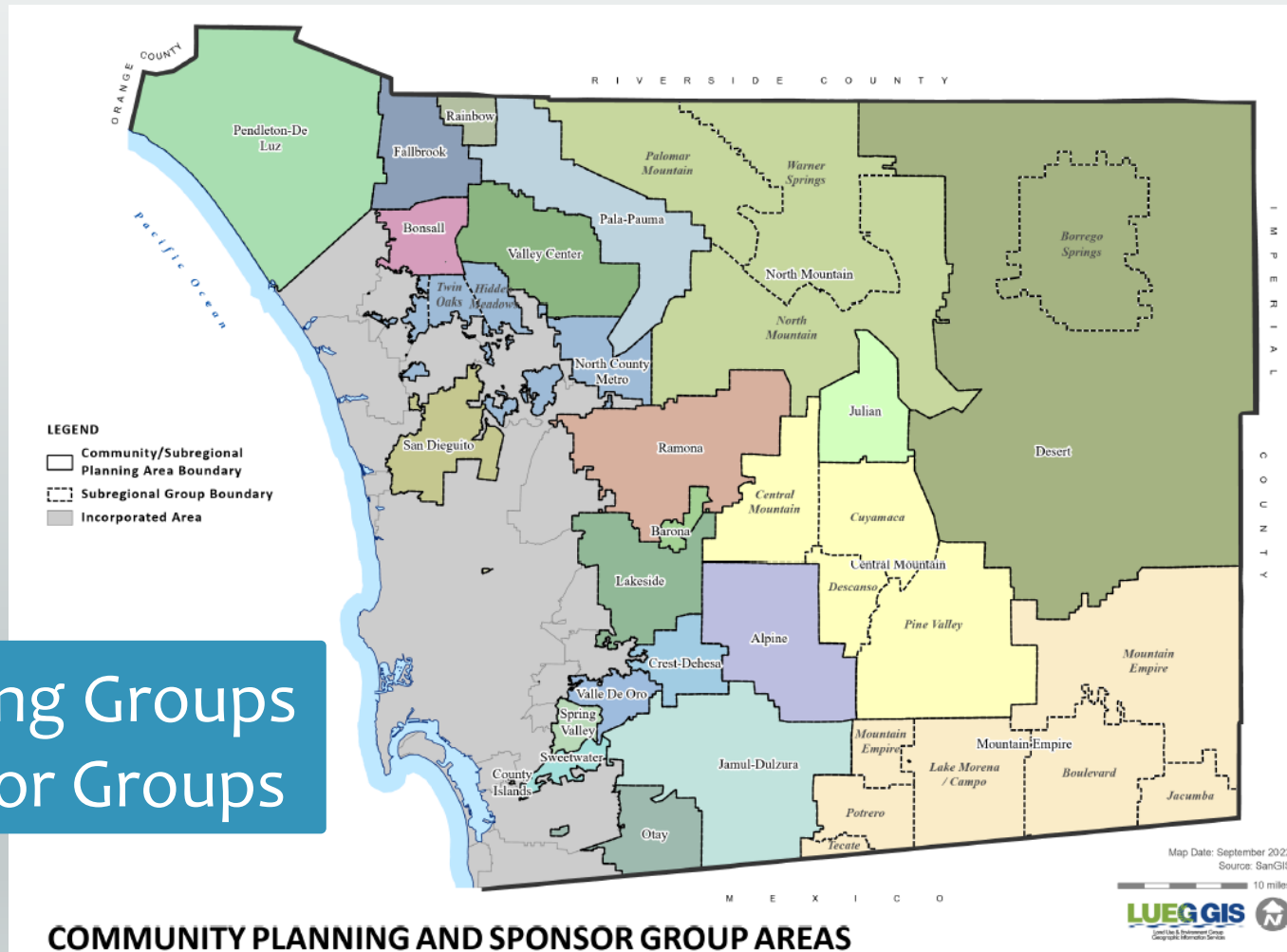
Planning Groups

- Elected by voters in a community
- Appointed between elections
- Must live within community

Sponsor Groups

- Appointed by Board of Supervisors
- Nominated by group, community, County staff, or Board of Supervisors
- Must live or own property within community

Planning and Sponsor Groups



18 Planning Groups
10 Sponsor Groups

Groups range from 5 to 15 members and must consist of an odd number of members.

SECTION 1



THE RALPH M. BROWN ACT: CALIFORNIA'S OPEN MEETING LAW & THE PUBLIC RECORDS ACT

Ralph M. Brown Act

- Authored by Ralph Milton Brown
- Passed into law in 1953
- Intent of Brown Act:
 - *“All meetings of a legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency...”* Section 54953(a)
- CA Government Code Sections 54950-54963

Purpose of Brown Act

- Facilitates public participation and access to all phases of decision-making
- Ensures the public has access to meeting documents and records
- Ensures that deliberations and actions are:
 - Open and accessible to the public
 - Held on a regular schedule
 - Adhere to a properly noticed agenda

Defining Legislative Body

- A legislative body is:
 - “The governing body of a local agency or any other local body created by state or federal statute”

OR

- “A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body”

Types of Legislative Bodies

The Brown Act applies to the following:

Governing Bodies

- Board of Supervisors; City Councils; School Boards

Appointed Bodies

- Planning Commissions; Sponsor Groups; Elected Planning Groups

Standing Committees

- Planning Group Subcommittees; Budget Committees

New Members

- Unseated newly elected or appointed members

Definition of Meeting

- “Any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.” *Section 54952.2(a)*
- No regular meetings shall take place without being properly noticed and posting an agenda 72 hours in advance of the meeting

Achieving a Quorum

- A quorum means that a majority of the members (including vacant seats) of a group is present to discuss items. This is required for any group meetings to occur.
- Similarly, when voting, at least a majority of all the authorized group members must vote in favor of a motion for it to pass, according to Policy I-1.
- Thus, if a quorum exists with five of nine members at the meeting, the vote must be unanimous among the members present for a motion to pass.
- The results of each vote must be announced. There can be no secret ballots, absentee votes, or proxy votes.

Meeting Locations

- Meeting locations must be fully accessible under the Americans with Disabilities Act
- Groups may not discriminate against attendees on the basis of race, religion, color, national origin, sex, ancestry, ethnic group identification, age, sexual orientation, etc.
- Generally, group meetings must be held within the group's boundaries (Gov't Code § 54953)

Composing Meeting Agendas

- Chair is responsible for setting the agenda, notifying project applicants at least 2 weeks before the meeting
- Each item on the agenda must include:
 - Brief general project description
 - Project location (address and/or parcel #)
 - Date, time, and place of meeting
 - Opportunity for the public to comment
 - Identify each action to be taken
- Agenda items should be heard based on their order in the posted agenda
- Continued Items should be placed first on the next meeting's agenda

Posting Meeting Agendas

- Meeting agendas must be posted:
 - At least 72 hours prior to a meeting
 - Outside of the meeting location
 - In a public place that is freely accessible 24 hours a day
 - Examples: Building Door, Bulletin Board, or Window
 - On County website
- PDS will post group agendas online. Please send to:
CommunityGroups.LUEG@sdcounty.ca.gov
- No agenda changes can be made less than 72 hours before a meeting

Posting Meeting Agendas

- Posting agendas online does not replace publicly posting agendas
- There is no requirement to publish agendas in a newspaper; however, Policy I-1 requires notice of the meeting to be placed in a community paper if one exists
- Meeting agendas must be available in alternative formats for persons with disabilities
- When no quorum is present and a meeting must be continued, a notice of adjournment must be posted at the meeting location

Regular vs. Special Meetings

- **Regular Meetings** are held at established dates, times, and locations
- **Special Meetings** are called to discuss specific topics or items
 - Notices serve as agendas and specify the business to be discussed
 - Notices must be posted 24 hours prior to a special meeting
 - Notices are given to each newspaper and television and radio stations upon request

Public's Right to Attend Meetings

- All group meetings are open to the public
- All members of the public may attend and observe all group meetings
- Groups cannot require the public to register, provide other information, complete a questionnaire, or fulfill any other condition to attend a meeting
 - Any attendance list, register, questionnaire, or similar document must clearly state that they are voluntary

Public's Right to Participate

- Members of the public must be allowed to:
 - Speak on any item within the group's purview
 - Speak on specific items before or during the group's consideration of an item
 - Criticize policies, procedures, programs, or services of the County or your group
- Your group may adopt reasonable regulations to ensure orderly public testimony
- If a person or group willfully disrupts a meeting such that orderly conduct becomes infeasible, the meeting should be postponed to a future time when a Sheriff can be present

Addressing Non-Agenda Items

Action or discussion of non-agenda items by planning/sponsor groups is **prohibited**.

For non-agenda items, Groups may:

- Place the item on a future agenda
- Ask a question for clarification
- Make a brief announcement
- Make a brief report on activities
- Provide a reference for factual information
- Ask to report back at a subsequent meeting

Public's Right to Record Meetings

- The public is permitted to record meetings using audio or video tape recorders, as well as still or motion picture cameras
- Recording or broadcasting meetings cannot be prohibited or restricted unless a reasonable finding is made that the noise, illumination, or obstruction of view constitutes a persistent disruption of the proceedings

Public's Right to Access Records

- Documents distributed to groups are public records subject to the Public Records Act
- All written materials distributed during a meeting must be made public:
 - At the meeting if prepared by a local agency or a member of a legislative body; OR
 - After the meeting if prepared by some other person
- Materials distributed less than 72 hours prior to a meeting must be available to the public at time of distribution

Meeting Exceptions

Below are meeting exceptions that may occur provided a majority of group members does not discuss group business:

1. **Individual Contact** between a group member and a non-group member
2. **Conferences** that are open to the public and involve a discussion of issues of general interest to the public
3. **Community Meetings** held by another organization addressing a topic of community concern

Meeting Exceptions

4. **Social or Ceremonial Events** that take place in the community, such as festivals
5. **Standing Committees:** Group members may attend subcommittee meetings as observers
6. **Other Legislative Bodies:** Open and publicized meeting of:
 - another body of the local agency or
 - legislative body of another local agency

Planning and Sponsor Group Subcommittees

- The Brown Act also applies to subcommittees:
 - Regular subcommittees of a CPSG are subject to the Brown Act
 - Limited purpose Ad Hoc committees (composed of fewer than 50% of CPSG members) are not subject to the Brown Act
 - Ad Hoc committees that include members of the public are subject to the Brown Act

Teleconference Meetings

- **Normal rules (Gov't Code § 54953):**
 - Agendas must be posted at each site, noting all teleconference locations.
 - Each site must be accessible to public.
 - Members of public at each site must have opportunity to address legislative body.
 - Quorum of members must participate from locations within local agency boundaries.
 - Votes must be by roll call.

Teleconference Meetings

- **Special Teleconferencing Rules During State of Emergency (Gov't Code § 54953(e)):**
 - Allows suspension of normal teleconference rules during emergencies when social distancing is required or recommended, or the legislative body makes a finding that meeting in person would present imminent risks to health & safety

Teleconference Meetings

Special Teleconferencing Rules (Gov't Code § 54953(e)), continued:

- Renew finding every 30 days
- Notice the meeting as otherwise required by the Brown Act
- Provide means for all persons to attend and address body via call-in or internet option, which must be noticed in agenda
- Conduct teleconferenced meetings in a manner that protects the statutory and constitutional rights of the parties
- In the event of a disruption that prevents broadcasting or call-in or internet-based service, actions cannot be taken.

Teleconference Meetings

New rules (Gov't Code § 54953(f), effective Jan. 1, 2023):

Posting of teleconference locations and allowing public access at each location not required if:

- Quorum of members participate in person at noticed location open to public
- Public may remotely hear, visually observe, and address body either remotely or in person in real time
- In the event of a broadcast disruption, the body may take no further action until restored
- Disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the relationship with those individuals.
- Members to participate through both audio and visual technology
- Public can participate via two-way audio or a telephonic service with a webcasting service

Continued...

Teleconference Meetings

New rules (Gov't Code § 54953(f), effective Jan. 1, 2023):

Member may only participate remotely without posting location if the member has **just cause**:

- Child care or caregiving need
- Contagious illness
- Need related to a physical or mental disability
- Travel on official business

Or due to **emergency circumstances** and the legislative body approves the request by majority vote:

- Physical or family medical emergency that prevents a member from participating in person

Continued...

Teleconference Meetings

New rules (Gov't Code § 54953(f), effective Jan. 1, 2023):

Member participating remotely without posting location must follow these procedures:

- ***Just cause*** cannot be invoked more than twice and this new rule (both ***just cause*** and ***emergency circumstances***) cannot be invoked for more than 2 meetings if fewer than 10 meetings per year, or more than 3 consecutive months or 20 percent of regular meetings per year if 10 or more meetings per year
- ***Just cause*** requires a general description while ***emergency circumstances*** requires an explanation and a vote of approval by the legislative body (add to agenda with enough notice or can be voted on without being an agenda item if notice comes after the agenda is posted—Brown Act exception)

Brown Act Violation: Collective Concurrence

- Collective Concurrence (or serial meeting) occurs when the majority of a group's members are made aware of each other's views and reach a decision after interaction between or among themselves
- Any use of direct communication, personal intermediaries, or technological devices employed by a majority of the members to develop a “collective concurrence” is considered a meeting and is strictly prohibited
- There are two types of serial meetings: Daisy Chain or Hub and Spoke

Types of Collective Concurrence

- Discussing or sharing each other's views on a project or issue among a majority of members through a series of:
 - Emails
 - Text messages
 - Phone conversations
 - Face-to-face conversations
 - Social Media (AB 992)
 - Personal intermediaries
 - Straw polls

Developing collective concurrence is a violation of the Brown Act and is prohibited

Potential Civil Actions

- The District Attorney or others may file a civil action asking a court to:
 - Stop or prevent violations or threatened violations
 - Determine applicability of the Brown Act to actions or threatened future actions
 - Determine whether any rule or action was valid
- Plaintiffs may seek court costs and attorney fees

Criminal Violations/Penalties

- Members may be found guilty of a misdemeanor if:
 - They attend a meeting where action is taken in violation of the Brown Act
- AND
- They intend to deprive the public of information that they know or have reason to know the public is entitled to

Question #1

SITUATION:

A newly elected/appointed planning or sponsor group member, who has not yet been seated, has engaged in a series of emails and texts with a majority of the group discussing a future agenda item.

TRUE or FALSE:

The newly elected/appointed member and the seated members have violated the Brown Act.

Answer #1

TRUE

- All newly elected or appointed group members who have not yet been seated are subject to the provisions of the Brown Act
- A majority of group members may not discuss any group business via text or email
- All group business must be discussed during an agendaized public meeting

Question #2

SITUATION:

An applicant requests a project be added to the agenda less than 72 hours before a meeting. The Chair does not add the project to the agenda. However, the applicant attends the meeting and requests the group discuss and take action on the project.

TRUE or FALSE:

The Group may discuss and take action on the applicant's project since the applicant is attending the meeting.

Answer #2

FALSE

- Groups cannot take action on or discuss any item or project not on the posted agenda
- Instead a group may:
 - Ask questions for clarification
 - Make a brief announcement
 - Make a brief report on activities
 - Provide a reference for factual information
 - Request to report back in a subsequent meeting
 - Place the matter on a future agenda

Question #3

SITUATION:

The meeting agenda was posted 72 hours in advance of the next meeting. A fellow group member requested that the Chair add an action item to the posted agenda within 72 hours of the meeting.

TRUE or FALSE:

The action item may be added to the agenda as long as the agenda is reposted before the meeting.

Answer #3

FALSE

- Posted agendas may not be revised less than 72 hours prior to a meeting
- Agendas may be revised up to 72 hours before a meeting
- Action items may not be added during a meeting

California Public Records Act

In enacting the Public Records Act, the Legislature, mindful of the right of individuals to privacy, declared that “*access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state*” Gov’t Code §6250

California Public Records Act

- Government Code Section 7920.500 et seq. allows access to “public records”
- “Public records” include:
 - “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” Gov’t Code §7920.530

What Constitutes a “Writing”

- “Writing” means:
 - “any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording ... regardless of the manner in which the record has been stored.” Gov’t Code § 7920.545

Groups are Subject to a Request

- Planning and Sponsor Groups are subject to Public Records Act requests (PRAs)
- All writings related to Planning and Sponsor Group business may need to be disclosed upon request
- You will need to disclose all public records in your possession – INCLUDING emails and text messages on your personal devices – that are the public's business:
 - Based on content, scope, context/purpose, and audience

Disclosure Exemptions

- The Public Records Act includes certain exemptions from disclosure to protect reasonable privacy interests, but unless an exemption applies, responsive records must be disclosed
- Common exemptions include: litigation, personnel, law enforcement, taxpayer info, and other privileged communications.
- “No state or local agency shall post the home address or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of that individual.” Gov’t Code § 6254.21(a).
- County staff can assist with questions if your group is subject to a Public Records Act request

Question #4

SITUATION:

The County receives a Public Records Act request from an interested citizen requesting all correspondence, received by or sent by a planning/sponsor group and any of its members, relating to a development project.

TRUE or FALSE:

The group members must disclose all emails, text messages, and other correspondence in their possession, that relate to the project, unless an exemption exists.

Answer #4

TRUE

- Each group member must review his or her files, computer, and cell phone for records that are responsive to the Public Records Act request. The group should work with County staff to disclose all records responsive to the request, unless particular records are determined to be exempt from disclosure.



Q&A

SECTION 2



CONFLICT OF INTEREST AND FINANCIAL DISCLOSURE

Conflict of Interest

- Appointment to a Planning or Sponsor Group constitutes a **public trust** that must always be respected
- You serve as an important link between County citizens, County staff, PDS, the Planning Commission, and the Board of Supervisors and are integral to the process of the government of the County
- You are to abide by the standards and expectations in the County's Code of Conduct
- A conflict of interest exists when your private interests conflict with your official responsibilities
- You may never engage in an activity that creates a conflict between your personal interests and those of the community that you represent, and you should also avoid situations that **could give the appearance of a conflict**

Conflict of Interest Codes

- The Political Reform Act requires the adoption of Conflict of Interest Codes
 - Government Code Section 81000 *et. Seq.*
- Conflict of Interest Codes have been adopted for all Planning/Sponsor Groups
- Conflict of Interest Codes for each Planning/Sponsor Group can be found at the Clerk of the Board of Supervisors website or with the Registrar of Voters:
http://www.sandiegocounty.gov/cob/conflict_interest/index.html

Financial Disclosure

- ALL group members are required to:
 - File Form 700 Statement of Economic Interests
 - Recuse themselves when they have a financial interest in a decision
 - Publicly disclose economic interests when recusing/disqualifying themselves

When to file Form 700 Statements

- Financial disclosure statements must be filed:
 - When filing a petition for nomination with Registrar of Voters (planning groups only)
 - Within 30 days of assuming office
 - Annually by March 31 for seated members
 - Within 30 days of leaving office
- Form 700 statements must be filed timely and accurately

Where to find Form 700

- Available from the FPPC at:
 - <http://www.fppc.ca.gov/Form700.html>
 - 1-866-ASK-FPPC
(1-866-275-3772)
 - 1-916-322-5660
- Resources, including video tutorials, are available on the FPPC website

Where to file Form 700 Statements

New Planning Group Members must file their initial statements on paper forms, with a “wet” signature. Completed forms should be mailed to:

Planning & Development Services
ATTN: CPSG Liaison
5510 Overland Ave, Ste #310
San Diego, CA 92123

All other forms by both Planning Group Members and Sponsor Group Members must be filed electronically through eDisclosure.

<https://www.southtechhosting.com/SanDiegoCounty/eDisclosure>

What to Disclose on Form 700

Investments

Interests in Real Property (not principal residence)

Commission, Income & Loans to Business Entities

Income From Rental Property

Income (other than loans and gifts)

Income from Loans and Gifts (\$50+)

Business Positions

Recusals and Disqualifications

- You cannot influence or vote on any decision that you know or have reason to know will have a reasonably foreseeable material effect on your economic interests
- You must disclose any disqualifying interests and recuse/disqualify yourself from discussions in which you have a conflict
- Your determination not to act and disclosure of disqualifying interests is a public record
- Important: Disqualification precludes any and all discussion of the item with staff and/or fellow group members

Conflict of Interest

- If a conflict of interest arises you must recuse/ disqualify yourself from taking part in the group discussion and vote:
 - Oral disclosure of the financial interest (for example, “I will be recusing myself from participating in this item because I own a home within 500 feet of the property that is the subject of this decision”)
 - Presence not counted towards the quorum
 - It is required that you leave the room
- Doing so shows respect for the public trust placed upon you as a member and ensures that you are not violating Policy I-1 or the Political Reform Act.

Defining Material Financial Effect

- Any business entity or real property in which you have an investment worth \$2,000 or more
- Any source of income totaling \$500 or more provided to, received by, or promised to you within 12 months prior to a decision
- Any business entity that you are a director, officer, partner, trustee, employee, or hold any position of management
- Any donor of a gift(s) totaling \$590 or more provided to, received by, or promised to you within 12 months prior to decision

Personal Interests

- You may represent your personal interests before the group if you recuse/disqualify yourself (not from the dais)
- Personal interests include:
 - Real property owned entirely by the official, members of the official's immediate family, or the official and members of the official's immediate family;
 - A business entity owned entirely by the official, members of the official's immediate family, or the official and members of the official's immediate family; or
 - A business entity over which the official, members of the official's immediate family, or the official and members of the official's immediate family solely or jointly exercise full direction and control.

Incompatible Offices

The doctrine of incompatible offices prohibits a “public officer” from simultaneously holding two public offices if the offices are incompatible

- Offices are incompatible when:
 - Either of the offices may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over the other office or body
 - Based on the powers and jurisdiction of the offices, there is a possibility of a significant clash of duties or loyalties between the offices and
 - Public policy considerations make it improper for one person to hold both offices
- Exceptions include those authorized by statute, service on a body that only has advisory powers, employment with another agency, etc.
- Planning and Sponsor Group members may serve on more than one agency and participate with each agency because they are advisory groups

Bribery or Graft

- You **may not** solicit, accept, or agree to accept anything of value in return for performing or refraining from performing your membership duties
- You **may not** use your position to:
 - Use information that is not available to the public to secure private gain for you or your family
 - Induce or coerce, or appear to induce or coerce any person or entity to provide financial benefit to yourself or other entity or person

Campaign Contributions

- Prohibits any “officer” running for office from participating in certain proceedings affecting contributors for 12 months following contribution
- Only applies to specific types of decisions related to licenses, permits, or other entitlements for use
- Also prohibits soliciting/accepting contributions over \$250 from party with pending proceeding before agency for 12 months after decision
- Note: S.B. 1439 (2022) extended this rule to elected officials and not just those who are appointed

Gifts

- You **cannot** accept any gift(s), gratuity, favor, entertainment, loan or any other thing of monetary value totaling \$590 or more, either directly or indirectly, from any person, firm, corporation, or other entity which would benefit materially from the outcome of a group decision.
- You must report any acceptance of gratuities totaling \$50 or more, and recuse/disqualify yourself from participating in group activities related to the person, firm, corporation, or other entity responsible for the gratuity.
- See FPPC Fact Sheet on gifts as a resource.

Note: These are the limits identified in BOS Policy I-1

Ethics Training

- All members must complete the State mandated ethics training (A.B. 1234) for local officials:
 - Within first year of being seated

AND

- Every two years after the initial training

Accessing Ethics Training

- State mandated ethics training (A.B. 1234) is available:
 - Fair Political Practices Commission (FPPC):
<http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/ethics-training.html>
 - Two Hours of Self-Study (reading materials and test)
- Upon completion, forward your Training Certificate to Planning & Development Services to receive credit for taking the training (In order to fulfill the mandate, the certificate or certificates need to document two hours of training)

Question #5

SITUATION:

You are a planning group member and a project is proposed on land you partially own. Your investment in the land and project exceeds \$2,000. The project is before your group for a recommendation.

TRUE or FALSE:

You must recuse/disqualify yourself from taking any action on your project and then state the reasons for your disqualification.

Answer #5

TRUE

- You must disqualify or recuse yourself from taking any action that you know or have reason to know will have an effect on your private financial interests
- You must disclose your disqualifying interest as a matter of public record when recusing yourself

Question #6

SITUATION:

Eight months ago a resident in your group's area gave you a gift exceeding \$250. Now, that resident is proposing a project that is before your group for a recommendation.

TRUE or FALSE:

You may vote on the proposed project that would financially benefit the resident.

Answer #6

FALSE

- You must recuse/disqualify yourself if you received gifts worth \$250 or more within 12 months prior to a decision from the applicant
- You must disclose your disqualifying interest
- You cannot receive anything of value in return for performing or refraining from performing your duties



Q&A

SECTION 3



**DUE PROCESS AND
EX PARTE CONTACTS**

Due Process and *Ex Parte* Contacts

“Each group shall conduct its meetings in accordance with the Brown Act and any other legal requirements, including but not limited to the Political Reform Act and Conflict of Interest Codes, necessary to assure the project's proponents and opponents and other members of the public receive *a fair opportunity to be heard.*”

Due Process and *Ex Parte* Contacts

- A party or applicant has a constitutional right of due process when a board or commission is making a decision that could impact the party/applicant's property rights
- Due process means the decision making process is fair:
 - The decision maker must hear all the evidence
 - The decision maker must not be biased or have prejudged the matter
 - The decision is based on substantial evidence
 - The affected party knows what evidence the decision was based on and has an opportunity to comment on or rebut the evidence

Due Process and *Ex Parte* Contacts

- “*Ex parte*” communications occur when decision makers receive evidence outside of noticed hearings
- This can include site visits, speaking with parties/witnesses or conducting outside research
- Because the affected party has a right to comment on the basis for the decision, decision makers should either avoid *ex parte* contacts, or should disclose any facts gathered outside the hearing or *ex parte* contacts prior to the close of the hearing



Q&A

SECTION 4



LEGAL DEFENSE & INDEMNIFICATION

Legal Defense & Indemnification

- Provided to encourage the fullest possible participation of qualified and interested residents as members
- Located in Article VIII of Policy I-1 Bylaws
- Defense and indemnification may be declined under certain circumstances

Legal Defense & Indemnification

- Planning/sponsor group members must meet all of the prerequisites in Policy I-1, including:
 - Complete Annual Planning/Sponsor Group Training
 - Complete state mandated ethics training every 2 years (AB 1234 training – two hours)
 - Accurately and timely file Form 700 - Economic Disclosure Statements

To Receive Defense & Indemnification:

You are an elected or appointed member at the time the alleged act or omission occurred

The alleged act or omission occurred during a lawful group or sub-committee meeting

Alleged act or omission was within reasonable scope of group duties and was not in violation of Policy I-1 or adopted By-Laws

You have completed the County's most recent planning/sponsor group training

You have submitted a written request to County Counsel within 5 business days of being served legal papers

Duties were performed in good faith with such care as an ordinarily prudent person in a like position would use under similar circumstances

You have completed the most recent State mandated biennial ethics training

Your financial disclosure statements were filed timely and accurately

Defense & Indemnification

- The County may decline defense and indemnification if any of the following conditions exist:
 - You do not reasonably cooperate in good faith with County Counsel in the defense of the claim for action
 - You acted or failed to act because of fraud, corruption, actual malice, or bad faith
 - You have **more than one** prior substantiated violation of the Brown Act or Policy I-1



Q&A

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SECTION 5



BOARD OF SUPERVISORS POLICY I-1

Board Policy I-1:

- Encourages public participation in County decision-making processes
- Provides a uniform process for:
 - Obtaining community input on land development projects
 - Creating and operating Planning/Sponsor Groups
 - Preparing, revising, and implementing Community and Subregional Plans

Planning/Sponsor Group Purpose

- Advise County decision-makers on:
 - Approval or denial of discretionary projects
 - Preparing, amending, and implementing Community and Subregional Plans
 - Planning and land use matters important to the community

Membership Requirements

All CPSG members must:

- Be 18 years old or older
- Be registered voters
- Planning Group members must live in the pertinent planning area and Sponsor Group members must either reside or own property within the sponsor group boundaries

3 Additional requirements:

- Complete Community Planning/Sponsor Group Training annually
- Complete State-Mandated Ethics Training every two years
- File Form 700 Economic Disclosure Statements annually

Membership Terms

- Group members serve 4-year terms
- Terms begin upon confirmation by the Board of Supervisors
- Terms expire the 1st Monday after January 1st, unless members are reelected or reappointed
- Members appointed to vacant seats midterm must serve out the full unexpired term of the seat they are filling, and need to be reelected or appointed once term expires

Group Officers

- Members elect the following officers each year:
 - **Chair**
 - **Vice-Chair**
 - **Secretary** (duties may be shared among members)
- Nominated by group members or a nominating committee
- Officers take office at the end of the meeting during which they are elected
- There are no term limits for group officers

Chair Responsibilities

- Supervises the Planning or Sponsor Group
- Tracks Group's compliance with membership requirements & fills vacancies
- Coordinates with Project Planner to develop meeting agendas
- Presides over all Group meetings
- Acts as official Group spokesperson
- Assigns duties to the Vice-Chair and other members as necessary

Vice-Chair and Secretary Duties

Vice- Chair

- Performs duties assigned by the Chairperson
- Assumes Chair duties and responsibilities in Chair's absence or as assigned by Chair

Secretary

- Records all meeting Minutes
- Maintains Group's correspondence file
- Keeps rolls, certifies presence of quorums
- Keeps record of all group actions

Unexcused Absences

- Membership may be forfeited if you miss:
 - 3 consecutive monthly meetings
 - 6 consecutive twice-monthly meetings
- OR
- 1/3 of the total number of meetings in a calendar year
- Forfeiture or waiver of forfeiture requires a majority vote by the Group

Process for Filling Vacancies

Group Chair informs PDS within 10 days of vacancy, copy of written resignation



Chair posts Vacancy Notice in the community & sends copy to PDS



Candidates submit applications



Registrar of Voters confirms applicant's qualifications



Meeting agenda is posted in a public place



Group considers applications and recommends candidate



Group recommendation sent to Board of Supervisors



Board of Supervisors confirms appointment at public hearing



Candidate completes CPG/CSG Training



Candidate seated as group member

Standing vs. Ad-Hoc Committees

Standing

- Continuing subject matter
- Fixed meeting schedule
- Ongoing

Ad-Hoc

- Specific task, assignment, purpose
- Terminated upon completion of task, assignment, or purpose

- Both types are subject to Board Policy I-1 and cannot have more than 50% of group members
- Confirm with staff if you have any questions

Meeting Notices and Agendas

- Notice of a meeting must be posted in a newspaper at least five days prior to a meeting, if a newspaper is available
- Agendas must be posted:
 - At least 72 hours prior to a meeting
 - On PDS website and outside of the meeting location
 - In a public place that is freely accessible 24 hours a day (door, bulletin board, window)

Rules of Order

One of the following must be chosen to govern all group meetings:

**Ray Keeseey's
Modern
Parliamentary
Procedures**

**Robert's Rules
of Order**

**Rosenberg's
Rules of Order**

- Rules of Order provide common rules and procedures for deliberating and debating during meetings
- BOS Policy I-1 and the Brown Act still apply

Political Activity

- No group may endorse, take action on, or support any political activity
 - Example: Supporting electoral candidate
- Groups provide a public forum for discussion of planning and land use issues that are important to the community

Quorums and Voting at Meetings

- Quorum is the minimum number of members that must be present to hold a meeting and take any official group action
- More than 50% of a group's authorized membership must be present
 - Authorized membership = total number of all group seats, **even if not filled**
- Only members who are present can vote
- Secret ballots are prohibited

Meeting Minutes

- Should include:
 - Record of who makes and seconds the motions
 - Indicate which members voted against, disqualified themselves, or abstained
- Should be sent to PDS after they are approved by the group:
 - Within two months of the meeting date, if the group meets monthly
 - Within one month of the meeting date, if the group regularly meets twice a month

Group Recommendations

- Recommendations are requested on all privately and publicly initiated discretionary projects that are located within your community
- Applicants are encouraged to contact the community group early in the process, but the group should not make a recommendation on the project until an application has been submitted to PDS.
- Recommendations must be forwarded to the County on PDS Form 534
- Every effort should be made to submit the recommendation form within 7 days following a meeting
- Recommendations are included in the staff report to decision-makers

Group Recommendations

- Recommendations should focus on:
 - Completeness and adequacy of project description
 - Compatibility with community character
 - Consistency with Community or Subregional Plan
 - Consistency with applicable zoning regulations and the County General Plan
 - Concerns regarding a project's environmental impacts

Publicly-Initiated Projects

Publicly-initiated projects include, but are not limited to:

- Zoning Ordinance Amendments
- Community Plan Amendments
- Board Policy Amendments
- General Plan Amendments
- Map and Text Amendments

Privately-Initiated Projects

Privately initiated projects include, but are not limited to:

- Administrative Permits
- Site Plan Permits
- Major and Minor Use Permits
- Tentative Parcel Maps
- Specific Plans and Plan Amendments

Commenting on Projects

Group comments on privately- and publicly-initiated projects are encouraged during:

- Application submittal (private projects)
- Public review periods
- Public hearings
- Stakeholder meetings (public projects)

Privately-Initiated Projects

- PDS provides plot plans, project application, and project description to Group
 - Electronic copy: Chair forwards to each group member
- Meetings should occur within 30 days of receiving application materials from PDS when feasible

Overview of Community Review Process

1. Application submittal
2. County notifies group chair via email
3. Communication between County staff, Chair, and Applicant
4. Project is placed on the agenda
5. Group makes recommendation
6. Recommendation is sent to County staff
7. Recommendation is reported to hearing body (if applicable)

Reconsideration of Votes

- Reconsideration of a previous vote is permitted only if:
 - Pertinent new information is available
 - AND
 - The new information could not, with the exercise of reasonable diligence, have been provided at or before the meeting at which a prior vote was taken
- A vote to reconsider requires a majority vote
- County should be consulted before reconsidering any previous votes

Appeal Privileges

- Groups have free appeal privileges on all discretionary land use matters within their respective community
- PDS must be promptly notified of a group's decision to appeal or withdraw the appeal
- Appeals get an item heard by the next/higher appellate hearing body
- Board of Supervisors hearings are final

Appeal Requirements

- Groups must be present at the public hearing during which a decision was made or have corresponded with the decision-making body prior to the hearing
- Appeals must be confirmed by a Group majority vote
- Appeals must be filed within 10 days following project approval or denial

Appeal Privileges

- If an appeal item cannot be placed on a meeting agenda 72 hours prior to the end of the appeal period, then:
 - The Chair may file an appeal
- OR
- Chair must file an appeal if petitioned individually by a majority of group members
- Note: General Plan Amendments and ordinances are automatically heard by the BOS

Group Expenses

- Members are reimbursed for expenses listed in Policy I-1
- Each reimbursement request shall not exceed \$100 (except for meeting hall and post office box rentals)
- For reimbursement to occur, meetings must have agendas and minutes approving the reimbursement
- Reimbursements must be received within three months of purchase or receipt of invoice
- Receipts and proof of payment are required for reimbursements
- County, under PDS authority, can pay directly for meeting space, legal ads, or P.O. Box, if necessary, within these limits.

Reimbursable Expenses

Posting Public Notices in Newspaper

Postage

Copying

Office Supplies

Post Office Box Rentals

Meeting Hall Rentals (less than \$100/ hr)

Letterhead

Mileage for travel to County meetings

PDS Staff Assistance

- Provides CP/SG training for all members
- Provides project information
- Coordinates new member appointments and confirmations
- Interprets Policy I-1

Code of Conduct

- Identifies conduct expectations that align with the County's values
- Groups can adopt additional standards based on needs
- Included in Policy I-1

The Code of Conduct can be found here:

https://www.sandiegocounty.gov/content/dam/sdc/pds/Groups/Chair_Resources/CodeofConduct.pdf

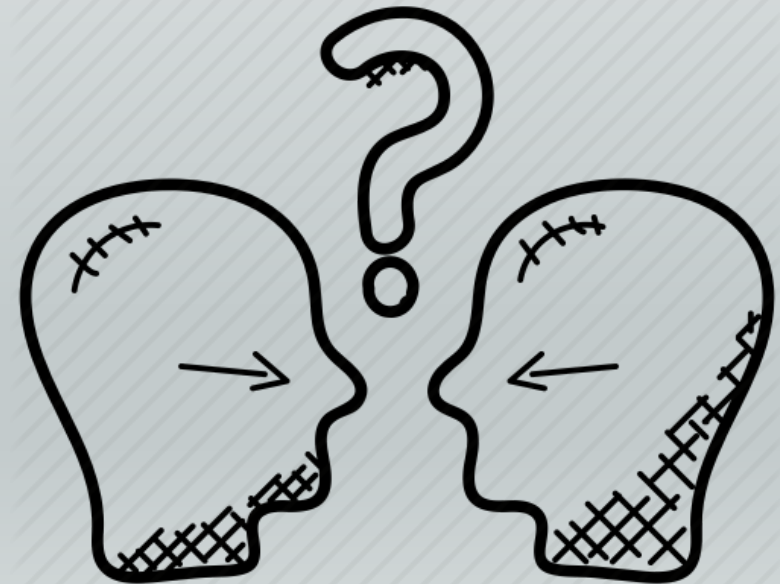
Conflict Resolution



Conflict Resolution

Be “soft on the people” while remaining
“hard on the problem.”

~ Fisher and Ury, the Harvard
Negotiation Project



Conflict Resolution

- We will promote an inclusive environment where diverse perspectives are shared and considered;
- We will listen attentively and ask questions to understand others' positions;
- We will show respect for ideas and views presented, even where we disagree;
- We will explain our positions by fairly presenting the reasons for them; and
- We will avoid personal attacks or other tactics that distract attention from the salient issues.

Conflict Resolution

The top of the tree is what people say when they are in conflict: their complaints.

Underlying Needs

Below the surface are the underlying needs that are important to them.



Conflict Resolution

- Demonstrate understanding
 - Recap speaker's main concerns in your own words
- Acknowledge impact
 - Reflect the feelings the person had
- Identify needs/interests
 - Say what you think their underlying needs/interests were (Respect, fairness, acceptance, acknowledgement, being valued, etc.)

Respond
Respectfully



Conflict Resolution

Tell Your Perspective in a Non-Confrontational Way

- State how the situation is affecting you without attacking the other
- State your interests:
 - One thing that is important to me is...
- Use “WE” statements:
 - WE need to...



Question #7

SITUATION:

A group member sells their property and changes their primary residence to a place outside of their Group's boundary.

TRUE or FALSE:

The member can continue to serve as a Planning/Sponsor Group member.

Answer #7

FALSE

- Planning group members must live within the Group's boundary area throughout their 4-year term.
- Sponsor group members must either own property or reside in the group area throughout their 4-year term.
- Members must resign from the Group when they no longer meet the above requirements

Question #8

SITUATION:

A resident was nominated to fill a vacancy. The group voted to appoint the resident as a group member.

TRUE or FALSE:

The candidate may vote on action items at the next group meeting prior to Board of Supervisors confirmation.

Answer #8

FALSE

- All appointments to vacant seats must be confirmed by the Board of Supervisors prior to any candidate taking action at a meeting
- All candidates must also complete the Planning/Sponsor Group training course prior to being seated

Question #9

SITUATION:

A group member leaves during a meeting leaving less than 50% of group members remaining.

TRUE or FALSE:

The group may continue the meeting and take action on the remaining agenda items.

Answer #9

FALSE

- More than 50% of group members (quorum) must be present for a meeting to occur
- If a member leaves and there is no longer a quorum; then all agenda items must be continued to the next meeting

Question #10

SITUATION:

Your Group reviewed and recommended approval of a project. The Group Chair voted to recommend denial of the project but the Planning Commission approved the project.

TRUE or FALSE:

The Chair may appeal the Planning Commission's decision to the Board of Supervisors without group support.

Answer #10

FALSE

- All appeals must be confirmed by a majority vote
- Appeals must be withdrawn if not supported by a group majority

Question #11

SITUATION:

Group members are reimbursed for expenses listed in Policy I-1.

TRUE or FALSE:

Group members must contact PDS staff prior to incurring any expense not listed in Policy I-1.

Answer #11

TRUE

- Policy I-1 has a list of reimbursable expenses
- Group members must first obtain permission prior to incurring any expenses not specifically identified in Policy I-1



Q&A

SECTION 6



LAND DEVELOPMENT PROCESS

Land Development Planning Process

- Planning = process of deciding how a community uses land and other resources
- Planning involves analyzing environmental and socioeconomic impacts of development
- Planning decisions in unincorporated community areas require County approval
- State law requires the County to adopt a comprehensive, long-term General Plan to guide physical development

General Plan

- Board of Supervisors adopted the General Plan Update in August 2011
- Provides foundation for decisions that will:
 - Affect the future location of housing, business, roads, parks, and other uses
 - Protect the public from noise, natural, and manmade hazards
 - Conserve natural resources

General Plan

- Sets goals and policies that guide long-term physical development in the County
- Establishes standards for population density, building intensity, and distribution of land uses
- General Plan consists of two parts:
 - Text: Goals/policies directing land development
 - Maps: Maps/diagrams illustrating distribution of land uses, major road system, open space, hazard areas, etc...

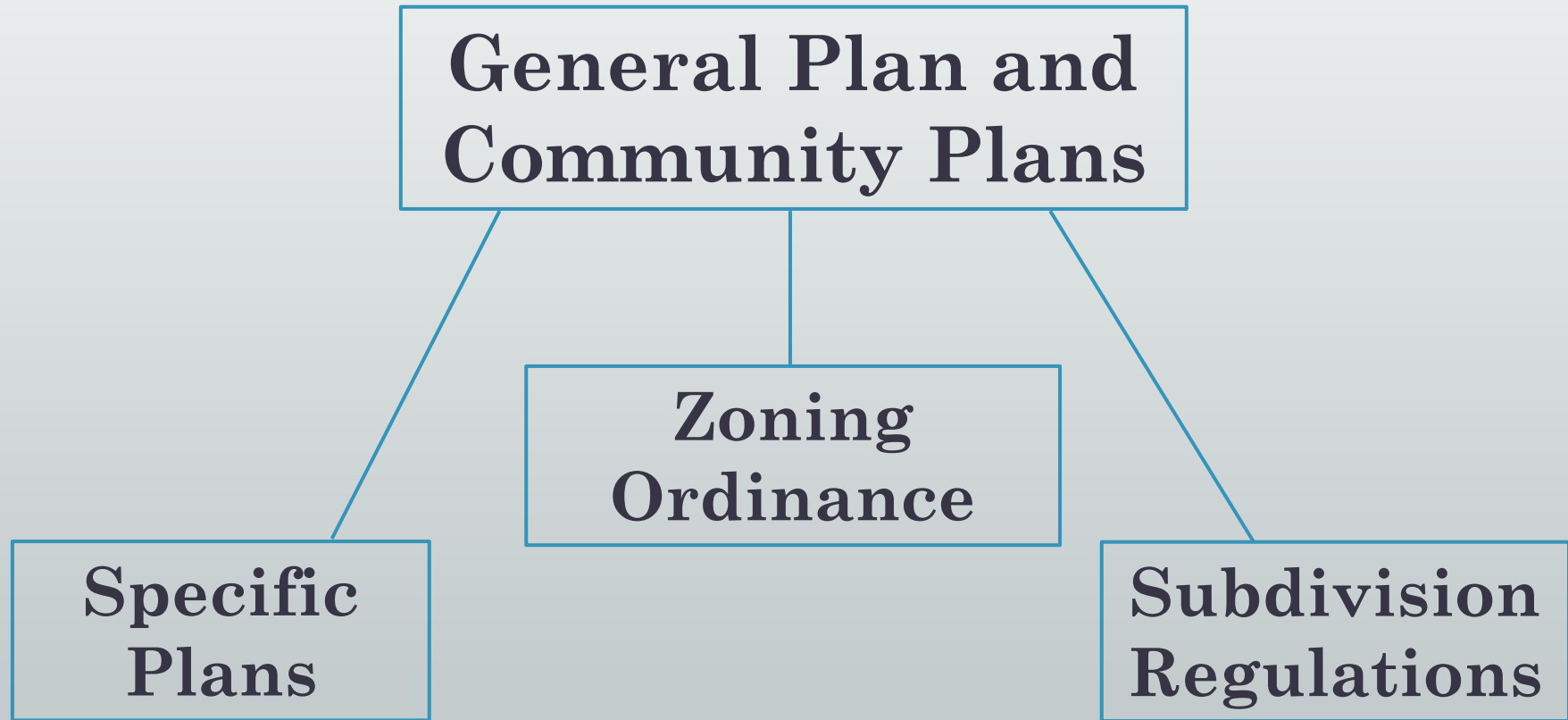
County's General Plan Elements



General Plan Consistency

- The County's General Plan is the basis for all land use decisions
- All zoning, subdivisions, and public works projects must be consistent with the General Plan in order to be approved
- General Plan must be internally consistent and not conflict with other parts of the Plan
 - Elements cannot conflict with each other
- Each General Plan Element may only be amended four times per calendar year

General Plan Implementation



- Specific Plans, Community/Subregional Plans, and the Zoning and Subdivision Ordinances implement the General Plan

Community Plans

- Community Plans focus planning efforts onto a smaller area or neighborhood
- There are 28 community and Subregional Plan Areas
- Considered part of the General Plan
- Address issues important to a community and supplements General Plan policies
- Community/Subregional Plan must be consistent with the General Plan in all respects

Specific Plans

- Implement, but are not technically a part of, the General Plan
- Describe allowable land uses, identify open space, and detail infrastructure availability and financing for a portion of a community
- Must be consistent with the General Plan
- Zoning, subdivision, and public works projects must comply with provisions of the Specific Plan

Zoning Ordinance

- Regulates land uses within the community
- Assigns each property a zone that describes rules under which land may be utilized
- Each zone identifies allowable uses and sets standards such as minimum lot size, building height limits, and building setbacks
- Zoning Use Regulations:
 - Residential (R)
 - Commercial (C)
 - Manufacturing (M)
 - Agricultural (A)
 - Special Purpose (S)

Zoning Ordinance

- Distribution of zones is based on the land use pattern established in the General Plan
- Zoning use regulations establish in specific terms the range of uses that are allowed by the General Plan
- Zoning maps illustrate how zones have been distributed
- Zoning is adopted by ordinance and development may only be placed where allowed by the zoning use regulations

Rezoning

- If property owner proposes a use that is not allowed in the current zone, then a rezone is required
- Rezones require a recommendation of the Planning/Sponsor Group and Planning Commission
- Rezones are approved by the Board of Supervisors at a public hearing

Permit Types

- 2 permit types that authorize development:
 - Ministerial Permits
 - Discretionary Permits
- Permit type depends on:
 - Nature of the proposed project or use
 - Categorization of a use in local ordinances
 - Various regulations affecting a property

Ministerial Permits

- Receive automatic approval upon demonstrating conformance with applicable requirements
- Not subject to discretion
- No decision maker decides whether or not a proposed use should be allowed
- Examples: Building Permits; Well Permits; Electrical Permits

Discretionary Permits

- Subject to the evaluation, judgment, and approval or denial by the local planning authority (Planning Commission, Board of Supervisors)
- Requires findings (reasons for approval/denial) to approve/deny project
- Have conditions of approval that must be satisfied
- Examples: Use Permits & Subdivision Maps
- Ministerial permits are generally required following approval of a discretionary permit

Variances

- Variances are a limited waiver of development standards allowed by the Zoning Ordinance, and shall only be granted or modified, if all the following can be found:
 - a. There are special circumstances applicable to the property, including size, shape, topography, or surroundings, that do not apply to property in the same vicinity and zoning classification;
 - b. Because of those special circumstances, strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other property in the vicinity and under identical zoning classification; and

Variances (Continued)

- c. Granting the variance assures that such an adjustment will not grant special privileges inconsistent with the other properties in the vicinity and zone of this property location;
- d. The variance will not authorize a use or activity which is not otherwise expressly authorized by the applicable use classification;
- e. Granting the variance or its modification will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in the vicinity and zone in which the property is located; and
- f. Granting the variance or its modification will not be incompatible with the San Diego County General Plan.

Major and Minor Use Permits

- Some land use types are only allowed upon approval of a major or minor use permit after a public hearing and with necessary findings
- The Zoning Ordinance specifies the uses for which a major or minor use permit is required, zones they may be allowed in, and the public hearing procedure
- Use permits impose special conditions to ensure a use will not be detrimental to surroundings
 - Examples: landscaping, soundproofing, limited hours of operation, road improvements, additional parking

Subdivision Ordinance

- Dividing land for sale, lease, or financing is regulated by County's subdivision ordinance and the state Subdivision Map Act
- Land cannot be subdivided without approval
- County's subdivision ordinance:
 - Regulates lot size and subdivision design
 - Requires dedications of public improvements or related impact fees
 - Requires compliance with General Plan

Subdivision Regulations

- Two types of subdivisions:
 - **Tentative Parcel Map:** subdivisions resulting in four or fewer lots
 - **Tentative Map:** subdivisions resulting in five or more lots
- Subdivisions are approved in two stages:
 - Tentative Map
 - Final Map

Tentative Map Stage

- Tentative Map and Tentative Parcel Maps are considered tentative maps
- Map is reviewed for compliance with General Plan and subdivision ordinance
- Environmental review is conducted
- If approved, map is subject to conditions of approval that must be satisfied within a specific time period
- Lots are not officially approved until a final map is recorded

Final Map Stage

- When all conditions of approval are satisfied, the Director of Planning & Development Services will approve a final map
- Final map must be approved if it substantially complies with the previously approved tentative map
- Map may be recorded at the County Recorder's office upon final map approval



Q&A

The California Environmental Quality Act (CEQA)



County of San Diego



What We'll Cover Today

- ❖ Summary of what CEQA is
- ❖ What a project is and how it is evaluated
- ❖ What CEQA covers
- ❖ Different document types
- ❖ How CEQA fits into the project process
- ❖ When and how you can work within the CEQA process

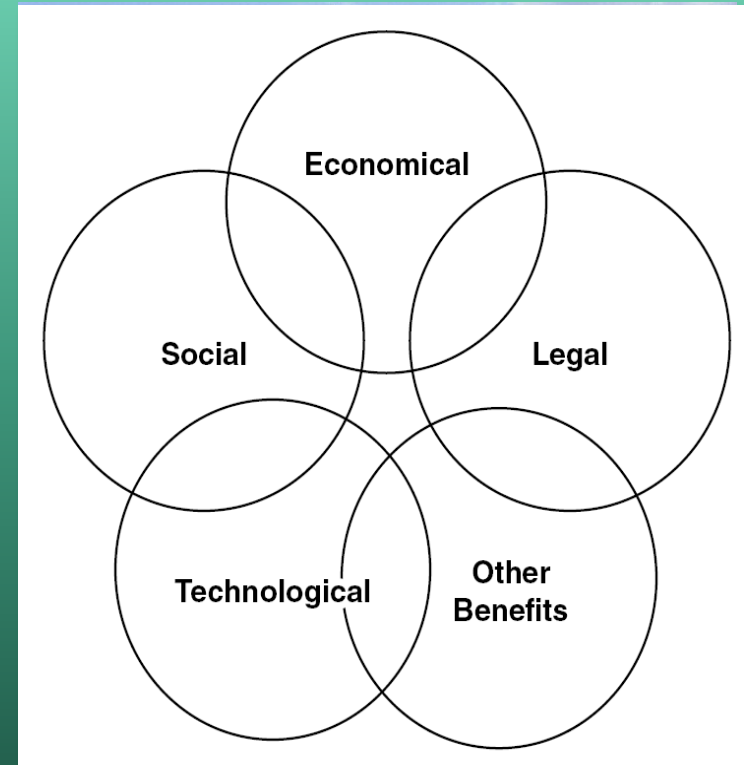
What Is The California Environmental Quality Act?

- California Environmental Quality Act
- Lead Agency / Responsible Agency
- Decision Maker
- Initial Study
- Discretionary



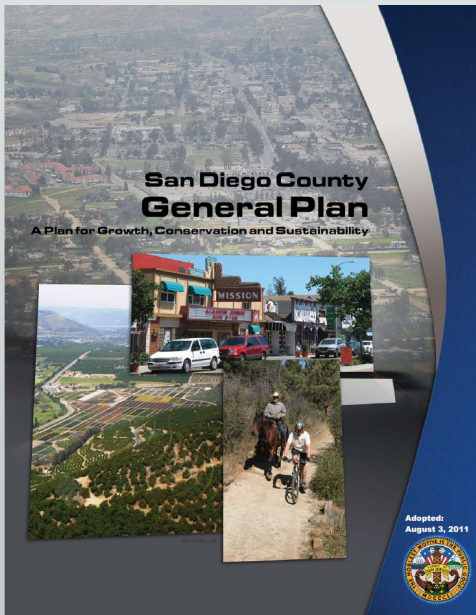
What Is The California Environmental Quality Act?

- **Thresholds**
- **Significant Impact**
- **Mitigation Measure**
 - Avoid (redesign), Reduce, Compensate
- **Alternatives**
- **Statement of Overriding Considerations**

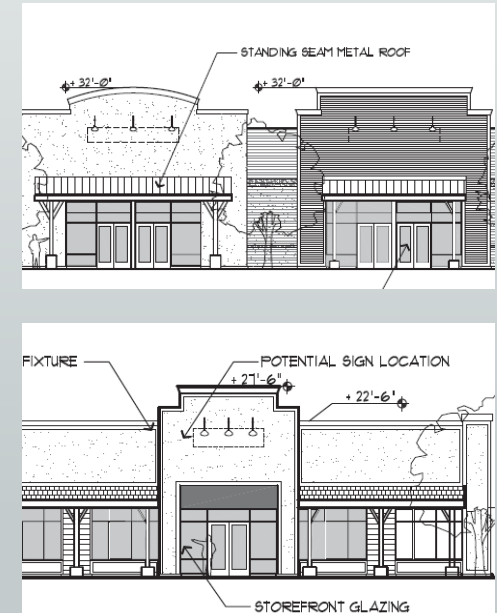


When Is A Project Subject To CEQA?

County Initiated



Privately Initiated



What Does CEQA Cover?

Aesthetics

Agriculture and
Forestry
Resources

Air Quality

Biological
Resources

Cultural
Resources

Geology and
Soils

Greenhouse
Gas Emissions

Energy Use

Hazards and
Hazardous
Materials

Hydrology and
Water Quality

Land Use and
Planning

Mineral
Resources

Noise

Population and
Housing

Public Services

Recreation

Tribal Cultural
Resources

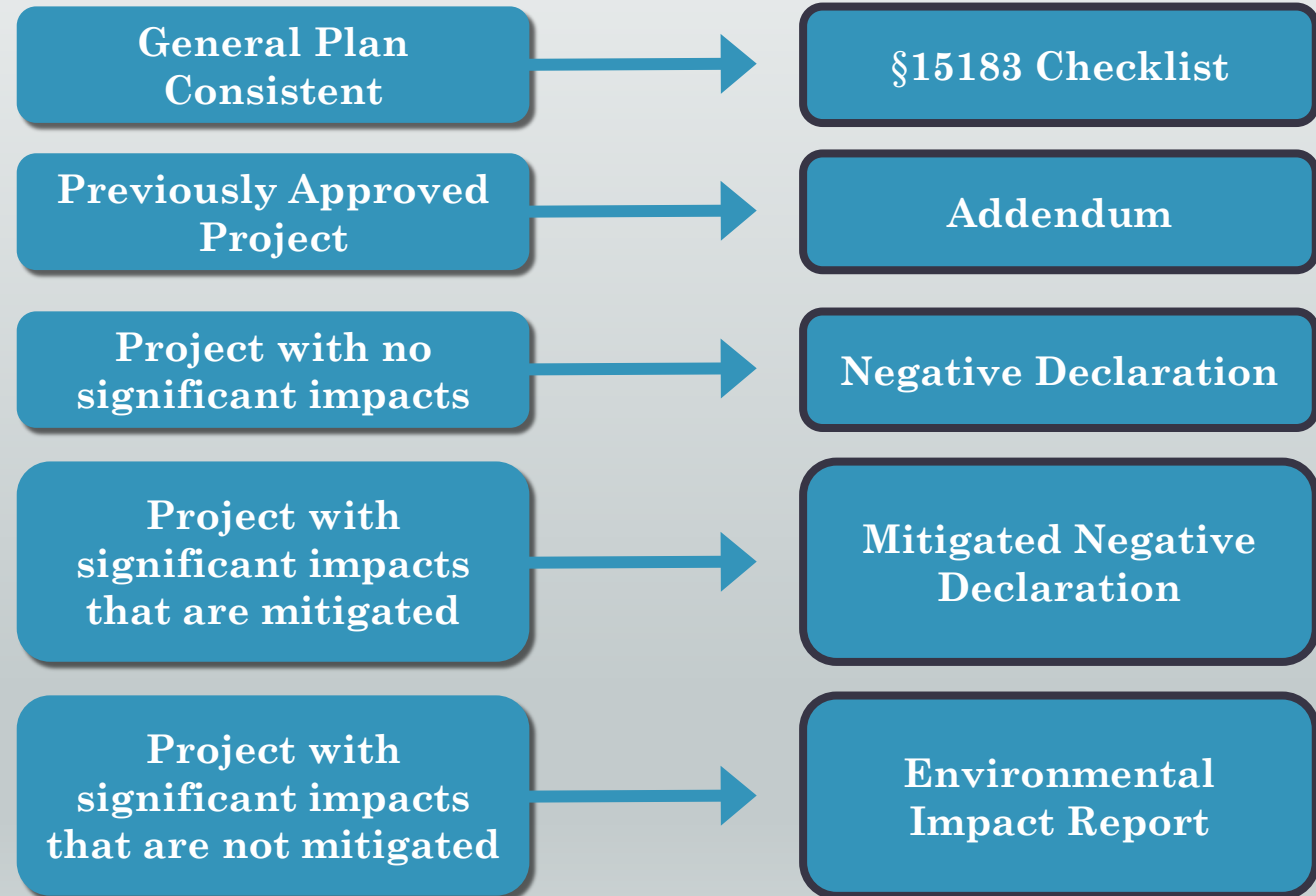
Transportation

Utilities and
Service
Systems

Wildfire

Impacts Determine Document Type

**Type of
document:**



General Plan Consistent - §15183 Checklist

Park Circle



Tractor Supply



Previously Approved - Addendum

County Initiated



Privately Initiated



No Or Less Than Significant Impacts - Negative Declaration (ND) And Mitigated ND

County Initiated



Privately Initiated



What Can Mitigate An Impact?



Significant Impacts – Environmental Impact Report (EIR)

County Initiated



Privately Initiated



Aesthetics



Alternatives

- ❖ Must Meet Project Objectives
- ❖ Reduce or Avoid Significant Impacts
- ❖ Must Be Feasible

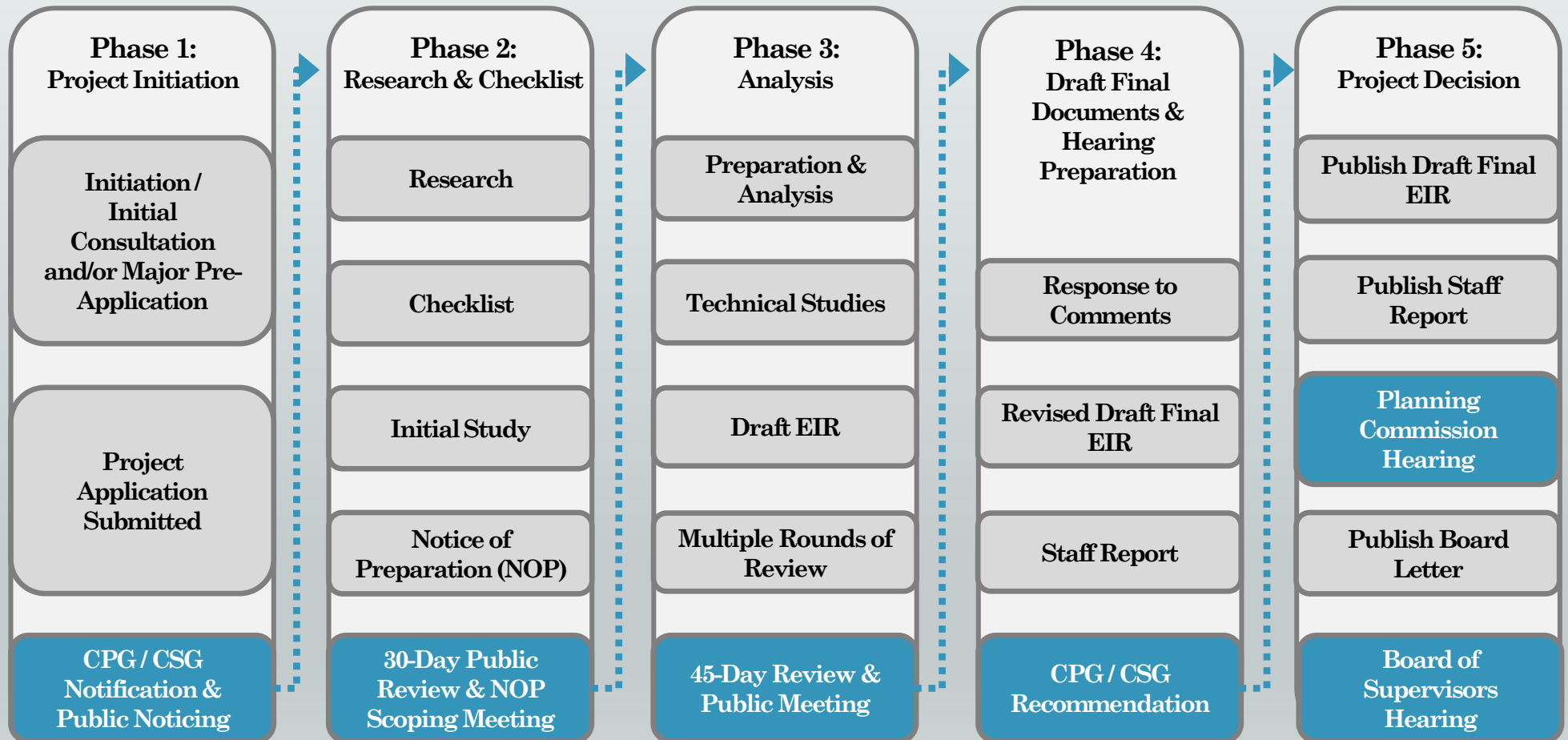


Biological Resources

- ❖ Project may have impacts
- ❖ Mitigation can reduce impacts
- ❖ Impacts may be less than significant



How Does CEQA Fit Into The Planning Process?



Useful Resources

For More
Information On
CEQA

Planning & Development Services:

<https://www.sandiegocounty.gov/content/sdc/pds.html>

Office of Planning and Research:

<http://opr.ca.gov/>

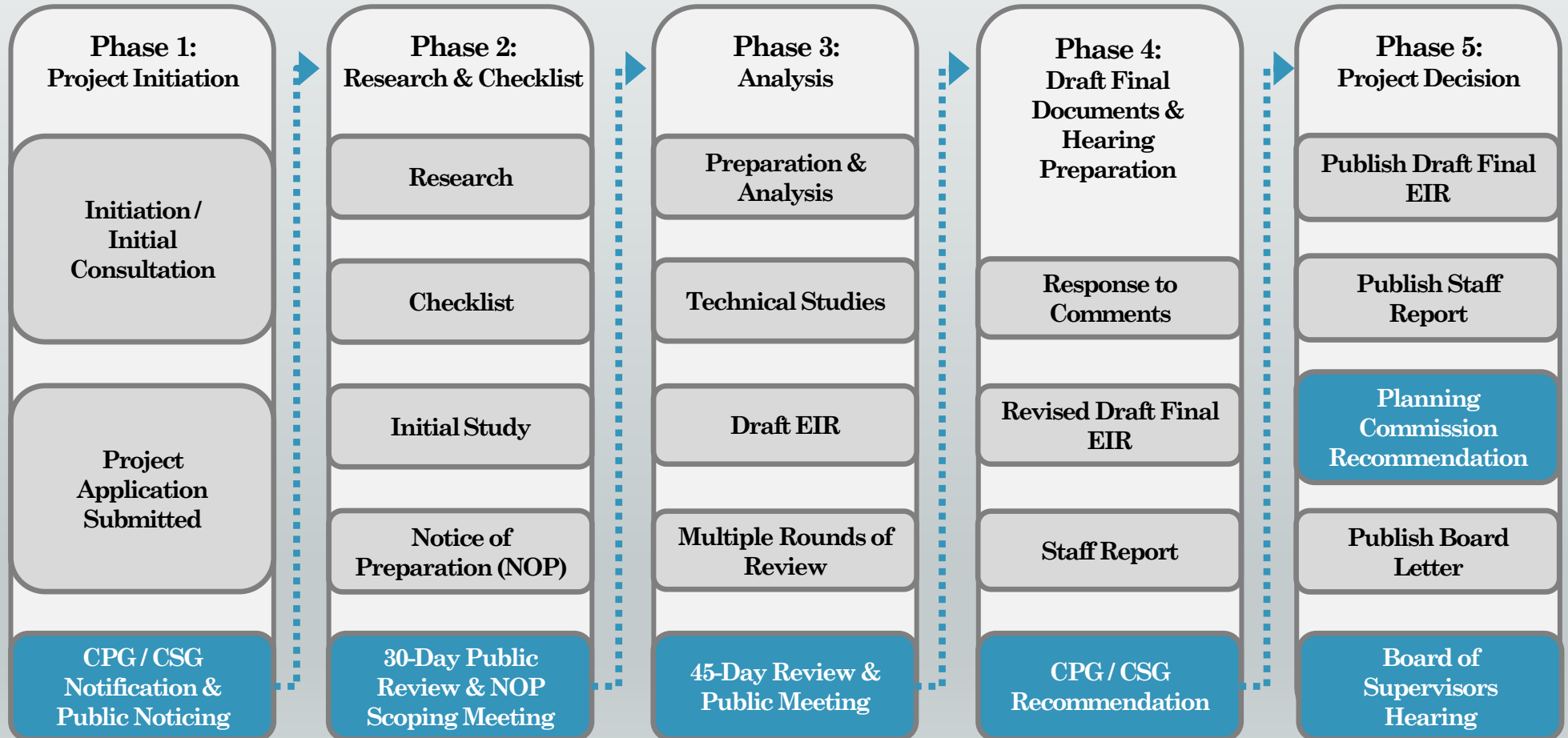
Association of Environmental Planners:

<https://www.califaep.org/>

A narrated version of the County's CEQA video
can be found at:

<https://www.youtube.com/watch?v=r4uSx-ekf5g>

When and How to Work Within the CEQA Process



Training Summary

Section	Subject Area
1	Ralph M. Brown Act & Public Records Act
2	Conflict of Interest & Financial Disclosure
3	Due Process & Ex Parte Contacts
4	Legal Defense & Indemnification
5	Board Policy I-1
6	Planning Process
7	California Environmental Quality Act



Useful Resources

Planning & Development Services:

<http://www.sandiegocounty.gov/pds/index.html>

Planning/Sponsor Groups: <http://www.sandiegocounty.gov/content/sdc/pds/CommunityGroups.html>

General Plan and Community Plans:

<https://www.sandiegocounty.gov/content/sdc/pds/generalplan.html>

Policy I-1:

https://www.sandiegocounty.gov/content/dam/sdc/pds/Groups/Chair_Resources/Board%20Policy%20I-1.pdf

Zoning Ordinance: <http://www.sandiegocounty.gov/pds/zoning/>

County Subdivision Ordinance:

<http://www.sandiegocounty.gov/content/dam/sdc/pds/ProjectPlanning/docs/SubdivisionOrdinance.pdf>



Useful Resources

Brown Act:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=2.&chapter=9.&part=1.&lawCode=GOV&title=5.

CA Planning Guide:

http://opr.ca.gov/docs/OPR_Complete_7.31.17.pdf

Political Reform Act: <http://www.fppc.ca.gov/the-law/the-political-reform-act.html>

Conflict of Interest Codes: <http://www.fppc.ca.gov/learn/conflicts-of-interest-rules.html>

CEQA Guidelines:

https://www.sandiegocounty.gov/content/sdc/pds/ceqa_public_review.html

Congratulations!!!

- You have successfully completed the Community Planning/Sponsor Group Training!
- Please complete the [Training Completion Form](#)
- Mail or email the Training Completion Form to Planning & Development Services at the address shown on the Form for record keeping purposes
- This will satisfy your annual Planning/Sponsor Group Training requirement

Thank you from County of San Diego!



The County of San Diego would like to thank you for dedicating your time to serving your community as a Planning/Sponsor Group member!

Your participation in the land use process is vital to balancing growth and development with conserving resources and preserving the unique character of our communities.

Your input and recommendations are valued by County decision-makers and staff.

Thank you again for taking the time to volunteer as a Planning/Sponsor Group member and for completing this training.

