



October 12, 2015

Ken Alex, Director  
Governor's Office of Planning & Research  
1400 Tenth Street  
Sacramento, CA 95814

SUBJECT: CEQA Guidelines – GENERAL COMMENT

Mr. Alex –

The Valley Industry & Commerce Association (VICA) has been a longtime champion of California Environmental Quality Act (CEQA) reform in order to expedite urgently needed housing in the San Fernando Valley.

Our ongoing recommendations do not sacrifice smart building policies, but instead deter the misuse of CEQA. The proposed guidelines in your draft, however, do not accomplish these goals and in their current form would continue to discourage much-needed development in Los Angeles County and the rest of the state.

Most concerning, OPR proposes a complete rewrite of the checklist of environmental questions included in Appendix G, which practitioners and the courts have long as the thresholds for determining when an impact is “significant” under CEQA. This proposed rewrite of Appendix G leaves practitioners (and judges) in far worse shape since OPR completely lacks the authority to overrule caselaw addressing its now-deleted thresholds, and it likewise lacks the authority to exponentially expand CEQA by adding new thresholds not required by the Legislature or the courts.

There is no question that the current Appendix G checklist includes provisions that are duplicative, circular and ambiguous. We have seen this in the San Fernando Valley as developments are continuously delayed due a petitioner's ability to point to a never-ending list of ambiguous complaints that could fall under Appendix G.

These provisions only worsen this problem, as OPR proposes to expand the current Aesthetics thresholds by defining a significant new impact (which accordingly requires feasible mitigation or an alternative to avoid or reduce the impact to a less than significant level):

Would the project “substantially degrade the existing visual character or quality of public views of the site and its surroundings in conflict with zoning and other regulations?”

We are in an era of increasing densities, expanding transit, reducing outdoor irrigation, and demanding efficient use – including mixed use – of our urban lands. We are also emerging from decades of zoning and land use regulations that restrict density and intensity, mandate setbacks designed for ornamental turf and thirsty landscaping, impose safe (wide) street mandates without accommodations for bicycle lanes or pedestrians, and in scores of other ways present local regulatory challenges to new urbanism and balanced, higher density, transit-oriented mixed-use communities.

OPR’s expanded aesthetics proposal simply decrees that any project requiring any exception or amendment to any zoning or other regulation creates a presumption of a potential adverse aesthetic impact as long as anyone can see it from any public space (i.e., a sidewalk or street).

It is challenging to consider a CEQA Guideline amendment that could provide more legal power to Not-In-My-Backyard (“NIMBY”) advocates seeking to use CEQA lawsuits to preclude change, and “freeze-frame” their current placid streets, ample parking, and deserted sidewalks and keep “those people” out of their neighborhood. How is this astonishing expansion of CEQA’s aesthetic impact threshold required by statute or case law, or remotely consistent with the policy directions of the Legislature or Governor?

If this proposed new CEQA threshold is adopted, CEQA demands implementation of “all feasible mitigation” to avoid or substantially lessen this adverse “existing visual character or quality of public views of the site and its surroundings.”

We ask that you reconsider this revision to Appendix G. The history of CEQA has shown that the OPR’s intent does not jive with the actual misuse of the law.

Thank you.



Coby King  
VICA Chairman



Stuart Waldman  
VICA President