

February 27, 2019

Advocates for the Environment

A non-profit public-interest law firm
and environmental advocacy organization



Diana Kitching
City Planner
Los Angeles Department of City Planning
200 North Spring Street
Los Angeles, CA 90012-2601

City Clerk
City of Los Angeles
200 North Spring Street, Room 320
Los Angeles, CA 90012

Via U.S. Mail and email to diana.kitching@lacity.org, City.Clerk@lacity.org

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Re: Comments on City Planning Commission's potential endorsement of Department of City Planning Department's adoption of updated CEQA thresholds, Case No. CPC-2018-6339-MISC, Los Angeles City Council File 14-1169.

Dear Ms. Kitching:

I write to object to the proposed adoption by the Department of City Planning (**Department**) and the City Planning Commission (**Commission**) of revised CEQA thresholds. The adoption of the CEQA thresholds will be considered as Agenda Item #7 at the February 28, 2019 meeting of the Commission.

The **Project** in this case is to set aside the L.A. CEQA Thresholds Guide, adopted by the Los Angeles City Council in 2006 (the **2006 Thresholds**), and to use, in its place, the CEQA Guidelines (14 Cal. Code Regs §§ 15000–15387 plus appendices), and particularly Appendix G of the Guidelines (the **Proposed Thresholds**). We object to this Project on a number of grounds, which are set out below.

Bad Policy

As discussed below, the Proposed Thresholds make it harder to find that a project's environmental impacts are significant, and this will result in fewer CEQA environmental documents being prepared; as a result, the City will require less mitigation for projects' significant environmental impacts.

The City should be using its discretion in approving land-use entitlements to fight for the environment by requiring strong mitigation of project's environmental impacts. The Proposed Thresholds are a significant move in the wrong direction. Instead of approving them, the City should revise them to bring the up to date.

Procedural Violations

Guidelines § 15064.7(b) requires that “thresholds of significance to be adopted for general use as part of the lead agency’s environmental review process must be adopted by ordinance, resolution, rule, or regulation...and supported by substantial evidence.” The Proposed Thresholds are being adopted for general use as part of the City’s environmental review process, so this Guidelines section applies. The process the City is following for the Project violates this requirement in three ways.

First, the Proposed Thresholds are not being adopted by “ordinance, resolution, rule, or regulation,” but by a decision of the Director of Planning, with the potential endorsement of the Commission. This violates § 15064.7(b).

Second, the 2006 Thresholds were adopted by the City Council. Neither the Department nor the Commission has the authority to set aside or supersede those thresholds.

Third, § 15065.7(b) requires that adopted CEQA thresholds must be supported by substantial evidence, and there is no such evidence in the record in this case.

CEQA Violations

The City’s adoption of the Proposed Thresholds to replace the 2006 Thresholds is itself a “project” under CEQA because it is a discretionary action by a public entity that may have significant impacts on the environment. The Proposed Thresholds would not directly cause environmental harm, but they would have substantial indirect impacts because the 2006 Thresholds are more protective of the environment than the Proposed Thresholds. The City’s use of the Proposed Thresholds instead of the 2006 Thresholds to evaluate the significance of environmental impacts will result in fewer impacts being found significant, and fewer mitigation measures will be required to mitigate those impacts, resulting in more damage to the environment. The following comparison tables show examples of how the Proposed Thresholds are less protective—i.e. set the significance thresholds higher—than the 2006 Thresholds:

Biological Resources

Impact	2006 Thresholds	Proposed Thresholds
Special-status Species	The loss of individuals, or the reduction of existing habitat	Substantial adverse effect
Wetlands	Alteration of an existing wetland habitat	Substantial adverse effect on state or federally protected wetlands

In addition, the 2006 Thresholds require the City to take into account the County’s designation of a project site as a Significant Ecological Area, when deciding land-use approvals. The Proposed Thresholds contain no such requirement.

Cultural Resources:

Impact	2006 Thresholds	Proposed Thresholds
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Historical Resources	Substantial adverse effect in the significance of a historical resource, with the following defined as substantial adverse effects: <ul style="list-style-type: none"> • Demolition of a significant resource; • Relocation that does not maintain the integrity and significance of a significant resource; • Conversion, rehabilitation, or alteration of a significant resource which does not conform to the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; or • Construction that reduces the integrity or significance of important resources on the site or in the vicinity. 	Substantial adverse effect in the significance of a historical resource
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For **Aesthetics**, the 2006 Thresholds are much more protective of open space, requiring the following factors to be considered in determining the significance of a project’s aesthetic impacts:

- The amount of natural open space to be graded or developed;
- The degree to which proposed structures in natural open space areas would be effectively integrated into the aesthetics of the site.

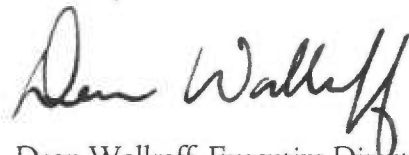
The 2006 Thresholds contain a great deal more useful information for each category of environmental impact, including screening criteria, sample mitigation measures, a discussion of cumulative impacts, and references to supporting data, resources, and references. These are all missing from the Proposed Thresholds.

The CEQA Guidelines contain no exemptions applicable to the Project, so, before approving the Project, the City should prepare an Initial Study to decide whether to evaluate its environmental impacts by way of a Negative Declaration or an Environmental Impact Report.

Conclusion

For the reasons given above, the Commission should refer the matter back to the Department, and should order the Department to update the 2006 CEQA Thresholds to be consistent with current CEQA law and the current situation in Los Angeles.

Sincerely,



Dean Wallraff, Executive Director
 Advocates for the Environment