

APPENDIX 6-8

Local Government Land Use Authority and CEQA Streamlining

With the passage of SB 375 came the addition of California Environmental Quality Act (CEQA) streamlining incentives to assist and encourage residential and mixed use housing projects consistent with the SCS and Transit Priority Project Areas. The CEQA benefits available under SB 375 are for residential and residential mixed-use projects that are consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in the SCS. The CEQA benefits provided by SB 375 apply to three types of projects. Table 1 contains a summary of the types of development projects eligible for these CEQA benefits, specific qualifications for each project, and the types of CEQA streamlining available to each type of project.

By express provision, SB 375 does not supersede the land use authority of a city or county and does not regulate the use of land. Projects that use the SB 375 CEQA provisions still must obtain discretionary permits or other approvals from lead and responsible agencies in accordance with local codes and procedures. Moreover, SB 375 does not change how CEQA applies to projects that are inconsistent with the SCS or APS. As these CEQA benefits are designed to incentivize development projects consistent with the RTP/SCS, there is no disincentive for development projects not in the RTP/SCS. As noted, CEQA does not mandate that local agencies use the RTP/SCS to regulate GHG emissions or for any other purpose. Local government land use authority remains unchanged by SB 375; jurisdictions can consider, review, and approve any land use project by the same process and guidelines they use currently.

Although this RTP/SCS has no regulatory authority over local land use decisions, it provides information about the SCS so that local jurisdictions can determine whether a project is consistent with the SCS, and therefore, eligible for the CEQA benefits based on consistency with the SCS. To determine a project's consistency with the SCS, a jurisdiction must find it consistent with the general land use, density, intensity, and any applicable land use policies of the SCS. BCAG will provide assistance to a local jurisdiction in making this determination if the local jurisdiction requests such assistance.

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Table 1
SB 375 California Environmental Quality Act (CEQA) Benefits

| Project Designation | Qualifications | Streamlining Benefits |
|---------------------------------|--|--|
| Mixed Use Residential Project | <ul style="list-style-type: none"> - At least 75% of total building square footage for residential use - Consistent with the use designation, density, building intensity, and applicable policies for the project area of an SCS or APS accepted by ARB OR - A Transit Priority Project as defined below | <p>Environmental documents are not required to reference, describe or discuss:</p> <ul style="list-style-type: none"> 1) growth-inducing impacts, 2) impacts on transportation or climate change of increased car and truck VMT induced by project, 3) reduced-density alternative to project. |
| Transit Priority Project | <ul style="list-style-type: none"> - At least 50% of total building square footage for residential use OR - If 26-50% of total building square footage is nonresidential, a minimum FAR of 0.75 - Minimum net density of 20 du/acre - Within 0.5 miles of major transit stop or high-quality transit corridor included in the regional transportation plan (No parcel more than 25% further, and less than 10% of units or no more than 100 units further than 0.5 miles) - Consistent with the use designation, density, building intensity, and applicable policies of an SCS or APS | <p>Benefits described above PLUS:</p> <ul style="list-style-type: none"> - Option to review under a "Sustainable Communities Environmental Assessment" - An Initial Study is prepared identifying significant or potentially significant impacts. - Where the lead agency determines that cumulative impacts have been addressed and mitigated in SCS/APS, they will not be "considerable." - Off-site alternatives do not need to be addressed. - Deferential review standard – the burden of proof for legal challenge is on the petitioner/plaintiff. - Traffic control/mitigation may be covered by SCS/APS. |
| Sustainable Communities Project | <ul style="list-style-type: none"> - Everything for Transit Priority Project PLUS: - Served by existing utilities - Does not contain wetlands or riparian areas - Does not have significant value as a wildlife habitat and does not harm any protected species - Not on the Cortese List - Not on developed open space - No impacts to historic resources - No risks from hazardous substances - No wildfire, seismic, flood, public health risk - 15% more energy-efficient than CA requirements and 25% more water-efficient than average for community - No more than 8 acres - No more than 200 units - No building greater than 75,000 square feet - No net loss of affordable housing - Compatible with surrounding industrial uses - Within ½-mile of rail/ferry or ¼-mile of high quality bus line - Meets minimum affordable housing requirements as prescribed in SB 375 OR in-lieu fee paid OR 5 acres of open space per 1,000 residents provided | <p>Exempt from CEQA</p> |