

Memorandum

To: Sandra Moberly, Community & Economic Development Director **File No.:** 82690.00308

From: BEST BEST & KRIEGER LLP

Date: September 30, 2020

Re: Streamlined Environmental Review for Infill Projects Under State CEQA Guidelines section 15183.3

QUESTIONS PRESENTED

You have asked for an outline of the legal requirements for conducting streamlined environmental review for infill projects under State CEQA Guidelines, section 15183.3. Streamlining under this section of the State CEQA Guidelines can range from a complete exemption to an obligation to prepare a narrowed, project-specific environmental document including an infill environmental impact report (“EIR”).

ANALYSIS

The California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.: “CEQA) includes several different methods for streamlining environmental review. Each of the methods of streamlining is designed to fulfill the state policy that CEQA review should be completed efficiently and quickly so as to devote resources to environmental mitigation rather than paperwork. (Pub. Resources Code, § 21003(f).) One of the most recent methods of streamlining—adopted in 2013—is for infill development projects that are consistent with a sustainable communities strategy or alternative planning strategy under SB375, or projects that constitute small walkable community projects. (Pub. Resources Code, § 21094.5; State CEQA Guidelines, § 15183.3.) The purpose of streamlining environmental review for qualifying infill projects is to limit the topics subject to review at the project level where the effects of the infill development have been addressed in a planning level decision or uniformly applicable development policies.

The streamlining benefits of State CEQA Guidelines, section 15183.3 are available only to projects that satisfy detailed criteria. The criteria that must be satisfied are outlined in the State CEQA Guidelines, section 15183.3(f) and Appendix M to the State CEQA Guidelines. If the project satisfies the screening criteria, then it can move to the next step in the process, which is to determine whether impacts of the proposed project are covered by a prior planning level EIR.

If a project satisfies all of the criteria in subdivision (f) of State CEQA Guidelines, section 15183.3 and Appendix M, then CEQA does not apply to significant effects of that project that were previously evaluated in a planning-level EIR (such as a General Plan EIR). If the Town finds that there are impacts of the project that are new and that can be substantially mitigated

through application of uniform development policies, then that impact does not need to be evaluated in a subsequent CEQA document. (State CEQA Guidelines, § 15183.3(c).)

In the event that subsequent environmental documentation is needed for a project that qualifies under State CEQA Guidelines, section 15183.3, there is a detailed procedure in the Guidelines for how these qualifying infill projects are to be analyzed. Appendix N to the State CEQA Guidelines contains a specialized initial study checklist for the Town to use when conducting this analysis. The checklist is designed to compare the project's impacts with the analysis of impacts in the prior planning-level EIR. If the checklist shows:

- The project would have no new impacts compared to the prior EIR, then the Town may determine that no further CEQA review is required; or
- The project would have impacts not evaluated in the prior EIR but those impacts would be less than significant, then the Town may prepare a negative declaration; or
- The project would have significant mitigable impacts that are not covered by the prior EIR, then the Town may prepare a mitigated negative declaration; or
- The project would have potentially significant impacts that are not covered by the prior EIR, then the Town would prepare an infill EIR.

If an infill EIR is necessary, State CEQA Guidelines, section 15183.3(e) sets forth the requirements for such an EIR. The infill EIR is required to analyze only those new or substantially more severe potentially significant impacts that are not substantially mitigated by the application of uniform development policies or standards. (State CEQA Guidelines, § 15183.3(e).) An infill EIR need not address alternative locations, densities or building intensities, and it need not analyze growth-inducing impacts. It is a streamlined EIR.

CONCLUSION

We hope that you find this memorandum helpful. Should you have any questions regarding this memorandum or the infill streamlined environmental review process, please let me know. I appreciate the opportunity to work with the Town.

ALISHA M. WINTERSWYK