

BRIEFING ON CEQA LEGISLATION UPDATES

Michael Ng, Senior Staff Attorney

Amanda Boyd, Staff Attorney

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AB 130 AND SB 131 OVERVIEW

- Preliminary points
 - This is all new and untested
 - Examples, but no comprehensive retrospective analysis
- Effective June 30, 2025
 - Budget trailer bills
- Bay Area connections
 - Assembly Member Wicks (AB 130)
 - Senator Wiener (SB 131)
- Purpose
 - Streamline CEQA through new exemptions



AB 130 OVERVIEW

Urban in-fill housing exemption

Tribal consultation requirements

“Shot clock”

AB 130 – URBAN INFILL HOUSING EXEMPTION

- Must meet certain requirements:
 - Housing development project as defined
 - Project site is no more than 20 acres
 - Incorporated municipality or in “urban area”
 - Previously developed with an urban use or surrounded by at least 75% urban use
 - Consistent with applicable plan and zoning ordinance and local coastal program
 - Project will be at least ½ density for lower income housing as specified in statute

AB 130 – URBAN INFILL HOUSING EXEMPTION

- Project may not:
 - Be located in certain coastal zone areas (as defined in Coastal Act), wetlands, flood hazard areas
 - Require demolition of historic structure
 - Be designated for use as hotel, motel, bed and breakfast inn, other lodging

AB 130 – TRIBAL CONSULTATION AND “SHOT CLOCK” PROVISIONS

- Tribal Consultation:
 - Projects exempt from CEQA under the new urban infill housing exemption must follow tribal consultation requirements
 - Local governments must notify Native American tribes of the project and consultations must occur within certain time periods
- “Shot clock”:
 - 30 days for lead agencies to approve or disapprove complete permit applications for projects exempt under the new urban infill housing exemption after the tribal consultation process is complete
 - 60 days for lead agencies to approve or disapprove complete permit applications for housing development projects subject to ministerial review

URBAN INFILL HOUSING EXEMPTION



- Carveouts
 - Coastal zone (as defined in Coastal Act) – no corresponding BCDC carveout
 - Special flood hazard areas subject to 100-year flood, per FEMA map

557 E BAYSHORE RD, REDWOOD CITY

- BCDC Permit No. 2023.004.00
- Approved June 1, 2023
- 14-acre site
- Mixed use
 - 2 residential apartment buildings (480 units, 85 affordable)
 - Athletic club, spa, shoreline public access



URBAN INFILL HOUSING EXEMPTION?

- Sufficient housing percentages?
 - $< 2/3$ sqft of site for residential use (But gross floor area?)
 - Even if $1/2$ sqft of site for residential use, only 480 units (500 units minimum)
- Less than 20 acres (14.36 acres)
- In incorporated city (Redwood City)
- General Plan and zoning consistency
 - GP: Mixed use waterfront, commercial regional; zoning: general commercial
- Sufficient urban infill parameters?
 - Vacant, but was movie theater complex.
 - Two sides surrounded by urban uses, one side surrounded by US Hwy 101, side facing Bay (Smith Slough) abuts tidal plain.
- Only 5.92 affordable units/acre (15 lower-income units/acre minimum)
- Within special flood hazard area per FEMA FIRM map
 - But may meet flood plain management criteria of FEMA NFIP

IF EXEMPTION APPLIED, HOW WOULD THAT HAVE AFFECTED BCDC?

- BCDC Permit No. 2023.004.00
 - Public access
 - Flooding, sea level rise
- CEQA exemption does not preclude BCDC consideration of these topics
- Development of information may be slower...
 - Coordination is key!
- Tribal consultation requirements still apply

SB 131 OVERVIEW

“Near miss” exemption

Housing element rezoning exemption

Various exemptions

SB 131 – “NEAR-MISS” EXEMPTION

- For housing development projects that would otherwise be exempt from CEQA (pursuant to another statutory exemption) **but for a single condition of that project**, need only conduct environmental review as to the effects caused by that one aspect of the project
- Do not need to discuss alternatives for project

SB 131 – “NEAR-MISS” EXEMPTION

- Does not apply to housing projects:
 - Not similar in kind to projects listed in statutory exemption
 - Where two or more conditions make the project ineligible
 - Which include a distribution center or oil/gas infrastructure
 - On natural or protected lands

SB 131 – HOUSING ELEMENT REZONING

- Rezoning which implements the schedule of actions of a local government's approved housing element is exempt
- Exceptions:
 - Distribution center or oil/gas infrastructure
 - Construction on natural or protected lands

SB 131 – OTHER STATUTORY EXEMPTIONS

- Farmworker housing
- Sewer service projects for disadvantaged communities
- Community water systems
- Wildfire risk reduction projects
- Linear broadband deployment in a right-of-way
- Updates to state climate adaptation strategy
- Public parks/recreational trails
- Day care centers/health centers/rural health clinics
- Nonprofit food bank/pantry
- Facility for advanced manufacturing
- High-speed rail development and maintenance facilities

NEAR-MISS EXEMPTION

- Carveouts: “natural and protected lands”
 - Environmentally sensitive areas (as defined in the Coastal Act) – no corresponding BCDC carveout
 - Within 300-foot radius of wetland, as defined by USFWS



557 E BAYSHORE RD – NEAR MISS?

- Urban infill housing exemption near miss?
 - Requisite percentage of residential use sqft for project site?
 - Low-income housing density requirements?
 - Special flood hazard area; but meets FEMA NFIP flood plain management criteria?
 - W/in 300ft radius of wetland (drainage ditch + Bair Island)
- Environmental analysis limited to impacts caused by single non-conforming condition
 - Hypo: low-income density v. wetland as disqualifying condition
- But here, multiple conditions...

OTHER EXEMPTIONS



- Linear broadband deployment in ROWs
 - Public services facilities in ROWs already exempt from BCDC permit (GC 66632.2)
- Advanced manufacturing facilities
 - Includes industrial biotechnology and R&D generally
 - BCDC sees biotechnology/R&D development proposals

BIOTECH/R&D BCDC PERMITS

777 AIRPORT BLVD, BURLINGAME
BCDC PERMIT NO. 2022.004.00



OYSTER PT., PHASES 3 & 4, SSF
BCDC PERMIT NO. 2022.003.00



ADVANCED MANUFACTURING EXEMPTION?

777 AIRPORT BLVD

- Local zoning: Bayfront Commercial (BFC)
 - Not industrial zoning
- Development not exclusively for life sciences research and development?
 - General office?
- BCDC Permit No. 2022.004.00
 - Public access
 - Flooding, sea level rise

OYSTER PT, PHASES 3 & 4

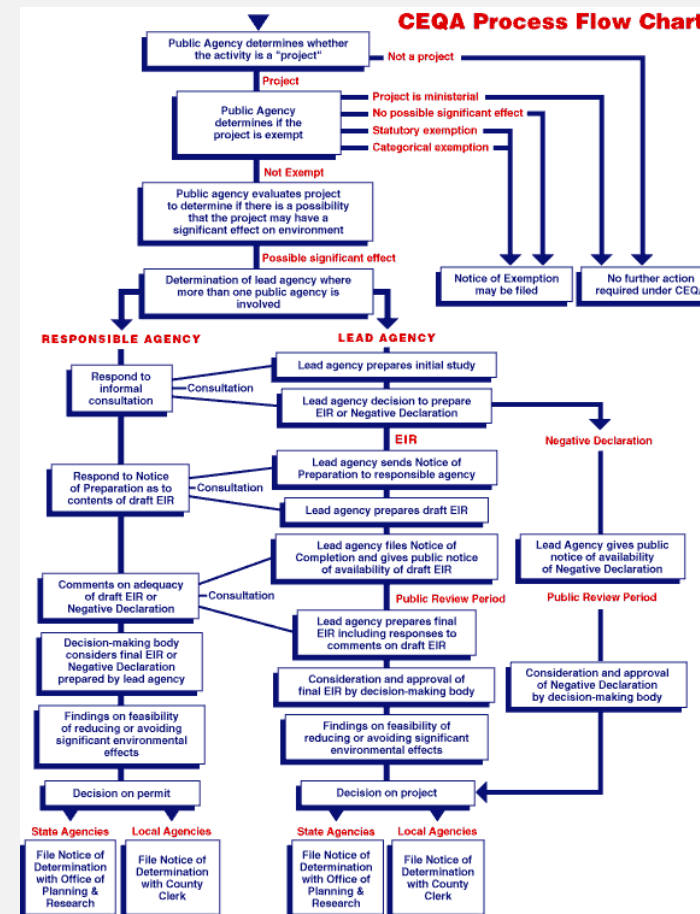
- Local zoning: Oyster Point Specific Plan District
 - Research and development (Industrial/R&D) use permitted by right
 - But other uses also permitted...
- Near miss exemption?
- BCDC Permit No. 2022.003.00
 - Public access
 - Flooding, sea level rise

HOW THESE BILLS RELATE TO BCDC (SUMMARY)

CEQA BASICS 101

EXISTING PRINCIPLES

- The bills largely apply to lead agencies
- BCDC typically acts as responsible agency
- Still...
 - Exempt projects may still occur within the shoreline band
 - The bills do not exempt McAteer-Petris Act compliance

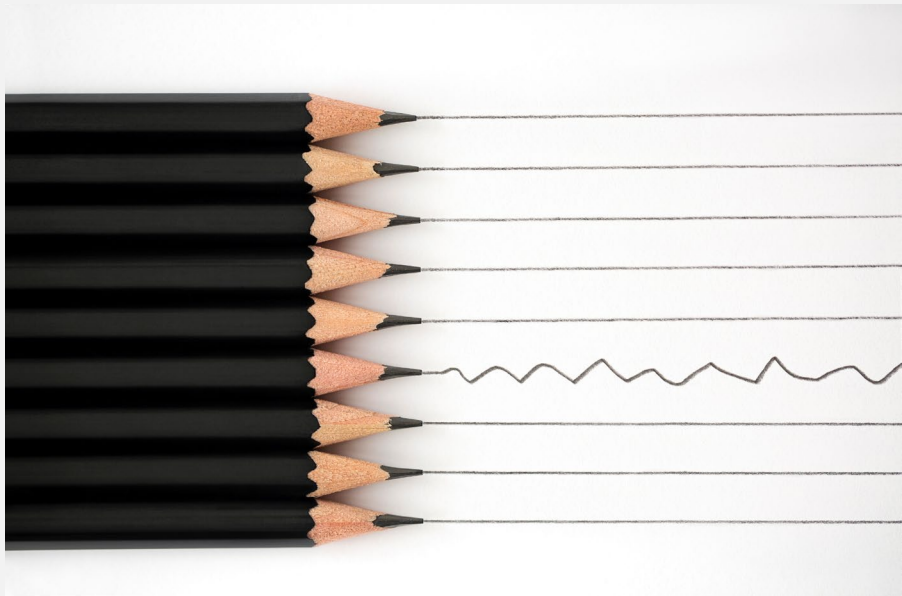


WHAT IS BCDC'S ROLE WITH RESPECT TO AN EXEMPT PROJECT?

- Existing McAteer-Petris Act authority
 - Regulate Bay fill to protect Bay resources
 - Maximum feasible public access



WHAT IS THE PRACTICAL EFFECT OF THE BILLS ON BCDC'S WORKFLOW?



- May see more projects with shorter lead-up times to permit application.
- It is imperative that BCDC staff coordinate early with local government and project proponents.

WHAT IF BCDC DISAGREES WITH A LEAD AGENCY'S DETERMINATION?

- Generally, responsible agency bound to lead agency's determination
 - Responsible agency takes lead agency to court?
 - Responsible agency assumes lead agency role?
- Urban infill housing exemption by and large defined by objective criteria



QUESTIONS?