
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Blakespear, Chair
2025 - 2026 Regular

Bill No: SB 958
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Urgency: No
Consultant: Brynn Cook
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Fiscal: Yes

SUBJECT: California Environmental Quality Act: exemption: City of San Diego: Midway Rising Specific Plan

DIGEST: Creates a California Environmental Quality Act (CEQA) exemption for the Midway Rising redevelopment project in the City of San Diego.

ANALYSIS:

Existing law:

- 1) Requires under CEQA that a lead agency determines whether a project is exempt from CEQA, or if it must do an initial study to determine if a project will have significant effects on the environment. If a project has no effect on the environment or effects that can be mitigated, the lead agency prepares a negative declaration (ND) or mitigated ND (MND). If the project will have significant impacts, the lead agency prepares an environmental impact report (EIR) to evaluate and propose mitigation measures for any effects on the environment, including impacts or likely impacts to land, air, water, minerals, flora, fauna, ambient noise, and historic or aesthetic significance. (Public Resources Code (PRC) §§21000 et seq.)
- 2) Establishes over 135 statutory CEQA exemptions in the public resources code, water code, government code and other statutes.
- 3) Establishes 33 categorical CEQA exemptions in the California Code of Regulations. (CEQA guidelines §15260- 15285). Categorical exemptions generally do not apply if there are significant environmental effects of the project, and specific exclusions include the site being located in a sensitive environment, on a hazardous waste site, having cumulative impacts over time, significantly adversely impacting a historic resource, or if there are other unusual circumstances that would cause a project to have a reasonable possibility for a significant effect on the environment due to unusual circumstances.

- 4) Establishes specific CEQA exemptions for infill development and housing development, including:
 - a) A CEQA exemption for housing projects up to 20 acres in size in urban infill areas, so long as they are not located on specific sensitive sites, and are consistent with existing general plan or specific plan if applicable, and meets set density requirements (i.e, at least 5 units per acre for an unincorporated area in a nonmetropolitan county, 10 units per acre in a suburban jurisdiction, and 15 units per acre in a metropolitan jurisdiction).
 - b) Residential projects, employment center projects, and mixed-use development projects, including any subdivision or zoning change, that are (1) within a transit priority area; (2) undertaken to implement and is consistent with a specific plan for which an EIR has been certified; and (3) consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy (SCS) or alternative planning strategy (APS) for which the California Air Resources Board (CARB) has accepted a metropolitan planning organization's determination that the SCS or APS would achieve the greenhouse gas emissions reduction targets (PRC §21155.4), commonly known as the transit-oriented development (TOD) exemption.
 - c) Specifies residential housing projects which meet detailed criteria established to ensure the project does not have significant effects on the environment (PRC §§21159.21 – 21159.124). These exemptions are available to:
 - i) Urban infill housing projects not more than 100 units on a site not more than four acres in size which is within one-half mile of a major transit stop;
 - ii) Affordable agricultural housing projects not more than 45 units on a site not more than five acres in size; and
 - iii) Urban affordable housing projects not more than 100 units on a site not more than 5 acres in size.
- 7) Establishes a ministerial approval process (ministerial projects are non-discretionary and thus are not subject to CEQA environmental review) for certain multifamily housing projects that are proposed in local jurisdictions that have not met regional housing needs. Requires eligible projects to meet specified standards, including paying prevailing wage to construction workers and use of a skilled and trained workforce for some projects. (Government Code § 65913.4)

- 8) Exempts from CEQA multi-family residential and mixed-use housing projects on infill sites within cities and unincorporated areas that are within the boundaries of an urbanized area or urban cluster. (PRC § 21159.25)
- 9) Creates an exemption (Class 32 categorical exemption) in CEQA for infill development projects that are consistent with a general plan and zoning, are substantially surrounded by urban uses and do not impinge on habitat or result in any significant effects relating to traffic, noise, air quality, or water quality; and can be adequately served by utilities and public services. (CEQA Guidelines §15332)
- 10) Establishes tiered CEQA review. When an EIR has been certified for a General Plan or a Specific Plan, the CEQA analysis of later projects can be limited to those significant effects that “are peculiar to the parcel or to the project” and that either were not addressed as significant effects in the plan’s EIR or that new information shows will be more significant than when the plan’s EIR was certified. (PRC§ 21083.3, CEQA Guidelines § 15183.)

This bill:

- 1) Creates a CEQA exemption for any project that is part of the Midway Rising Specific Plan, meeting specifications for the Midway Rising project, including that the project:
 - a) Will create at least 4,250 new residential units, of which no less than 2,000 units will be affordable units;
 - b) Has completed and certified the Subsequent Environmental Impact Report No. PRJ-1106734 (SCH No. 2023120451) for the Midway Rising Specific Plan;
 - c) Meets certain sustainability requirements, including that the project will use 100% renewable power for all developments from onsite renewable sources, including solar, and when power from renewable sources is unavailable, power that is sourced from San Diego Community Power;
 - d) Specifies that the project will create high-wage, highly skilled jobs that pay prevailing wages and living wages, and employs a skilled and trained workforce.
- 2) Makes related findings and declarations.

Background

- 1) *The A, B, C's of CEQA.* CEQA is designed to (a) make government agencies and the public aware of the environmental impacts of a proposed project, (b) ensure the public can take part in the review process, and (c) identify and implement measures to mitigate or eliminate any negative impact the project may have on the environment. CEQA is enforced by civil lawsuits that can challenge any project's environmental review. Nonprofits, private individuals, public agencies, advocacy groups, and other organizations can all file lawsuits under CEQA: CEQA is the only state environmental protection law that allows for citizen lawsuits. In the case of a CEQA lawsuit, it is ultimately up to the courts to determine if the environmental review was sufficient to meet the requirements of CEQA.
- 2) *Environmental Review under CEQA.* Under CEQA, projects (unless they have a specific exemption) must undergo environmental analysis. This process starts with an initial study which determines what level of further environmental review is needed for a given project. If a project has no significant effects on the environment, or if those effects can be fully mitigated, the project can move forward with a negative declaration (ND) or mitigated negative declaration (MND). If the initial study finds that the project has potential significant effects on the environment, then a full EIR is conducted. An EIR provides thorough environmental review of a proposed project, analyzing the significant direct and indirect environmental impacts of a proposed project on water quality, transportation, air quality and greenhouse gas emissions, terrestrial and aquatic biological resources, surface and subsurface hydrology, land use and agricultural resources, aesthetics, geology and soils, recreation, public services and utilities such as water supply and wastewater disposal, and cultural resources, among other factors. The EIR also includes proposed mitigation measures for any significant effects that it identifies and considers alternatives to the proposed project.
- 3) *CEQA exemptions.* A project is exempt from CEQA if it is ministerial (i.e., it does not involve discretionary decisions), or if there is a specific statutory or categorical exemption that applies to the project. Statutory exemptions are created by the Legislature and typically apply even if a project has the potential to significantly affect the environment. In contrast, categorical exemptions, which are listed in the CEQA guidelines, generally do not apply if there are significant environmental impacts associated with the project, including if (1) there is a reasonable possibility of a significant effect on the environment due to unusual circumstances; (2) significant cumulative impacts from projects of the same type will result; or (3) the project will have impacts on a uniquely sensitive environment.

In addition to CEQA exemptions, there are explicit ministerial processes established for housing projects. If a decision to move forward with a project is ministerial, it is not subject to CEQA. Numerous pieces of legislation have developed ministerial processes for housing projects, including SB 35 (Wiener, Chapter 366, Statutes of 2017) which created a ministerial process for certain multifamily affordable housing projects in local jurisdictions that have not met regional housing. SB 35 was most recently modified with the passage of SB 423 (Wiener Chapter 778, Statutes of 2024), which expanded the ministerial process in SB 35 to include more projects in more areas, including applying the ministerial process to some market-rate housing and extending the process to apply to projects in the coastal zone.

- 4) *CEQA housing exemptions.* There are at least 19 distinct CEQA exemptions for housing projects. These include statutory exemptions for affordable housing projects, farmworkers housing projects, and infill residential development that meet certain criteria. Residential development projects or any zoning changes consistent with a specific plan for which an EIR was certified after January 1, 1980, are also statutorily exempt from CEQA. CEQA guidelines include further categorical exemptions for housing projects, including another exemption for infill projects (Class 2 categorical exemption) and New Construction of a Small Number of Housing Units (Class 3 categorical exemption).

In the last three years, there has been an even more concentrated effort to create statutory exemptions from CEQA for housing projects, and the Legislature has created and expanded numerous CEQA exemptions and ministerial pathways to advance housing. These include:

- AB 130 (Wicks, Chapter 22, Statutes of 2025) establishes a CEQA exemption for housing in infill areas that are up to 20 acres meeting certain criteria.
- AB 2243 (Wicks, Chapter 272, Statutes of 2024) loosens restrictions on housing streamlined under AB 2011, including affordability requirements and limits on building housing near freeways.
- AB 3035 (Pellerin, Chapter 524, Statutes of 2024) expands a CEQA exemption for farmworker housing.
- AB 2553 (Chapter 275, Statutes of 2024) expands the definition of “major transit stop” to enable more housing projects to qualify for CEQA exemptions available for infill sites and transit priority projects.
- AB 1893 (Wicks, Chapter 268, Statutes of 2024) expands the Housing Accountability Act’s streamlining of housing developments by reducing the affordability requirement for builder’s remedy projects from 20% lower income units to 13%. The bill also allows use of the builder’s

remedy to avoid locally adopted inclusionary ordinances and to build at lower density near transit and in infill areas.

- AB 3057 (Wilson, Chapter 210, Statutes of 2024) exempts from CEQA the adoption of a city or county ordinance that facilitates junior accessory dwelling units.
- SB 1361 (Blakespear, Chapter 188, Statutes of 2024) provides an exemption from CEQA for local agency contracts for services to people experiencing homelessness.
- SB 1395 (Becker, Chapter 297, Statutes of 2024) provides an exemption from CEQA for local agency actions to facilitate homeless shelters, such as actions to lease land for low barrier navigation centers.
- AB 1449 (Alvarez, Chapter 761, Statutes of 2023) exempts from CEQA affordable housing projects in infill areas. Qualifying projects must consist of multifamily residential uses only, or a mix of multifamily residential and nonresidential uses, with 2/3 of the area designated for residential. All of the residential units must be dedicated to lower income households.
- AB 1307 (Wicks, Chapter 160, Statutes of 2023), provides that EIRs for residential or mixed use housing projects of public higher education institutions are not required to analyze alternatives to the location of the proposed housing site under specified circumstances. The bill further provides that, for residential projects subject to CEQA, the effect of noise generated by project occupants and their guests on human beings is not a significant effect on the environment.
- SB 4 (Chapter 771, Statutes of 2023), allows a housing development project to constitute a “by right” use, and thus not a “project” under CEQA, if the property is owned by a non-profit, independent higher education institution or a religious institution. The development must include affordable housing as specified and be located in a qualifying urban area.
- SB 423 (Wiener Chapter 778, Statutes of 2023) extends SB 35 (2017), which allowed for ministerial approval (exempt from CEQA) of qualifying multifamily housing projects in jurisdictions that have not met regional housing needs. SB 423 makes SB 35 applicable within the coastal zone, extends SB 35 to jurisdictions that lack a compliant housing element, and limits SB 35’s exclusion for areas within very high fire hazard severity zones.
- SB 684 (Caballero, Chapter 783, Statutes of 2023) allows for the ministerial approval (exempt from CEQA) of subdivisions for 10 or fewer housing units, provided the site is no larger than 5 acres, is “substantially surrounded by qualified urban uses,” and is zoned for

multifamily residential.

Needless to say, the recent legislation described above from the last three years has created many more opportunities for housing construction to proceed outside of CEQA.

- 5) *CEQA and housing litigation.* Getting a CEQA exemption fast-tracks projects. The environmental review and analysis of mitigation measures that happens through CEQA is thorough and thus can be time-consuming. However, the real threat of delays related to CEQA comes from potential CEQA lawsuits on a project. Not all CEQA lawsuits address the same type of issues or face the same type of challenges. While it would be possible to sue a lead agency for improperly using a CEQA exemption, the lawsuit would rest solely on whether or not the project met the eligibility criteria for the exemption, as opposed to lawsuits brought against an EIR making the claim that the thorough and detailed environmental review had gaps or erroneous conclusions or other flaws in environmental review documents or process.

However, it should be caveated that overall, it is not very likely that a given housing project will be subject to a lawsuit. One study that examined all cases of CEQA litigation specifically asked what percent of housing, by unit, were subject to CEQA litigation. Considering both housing and mixed use development, the authors determined that about 3.6-4.8% of housing units were challenged by CEQA in 2022, and 4.8% were challenged in 2024.¹

- 6) *Tiered CEQA: General plans, specific plans, community plans.* The Planning and Zoning Law requires every county and city to adopt a general plan that sets out planned uses for all of the areas covered by the plans: local governments may adopt more granular specific plans or community plans. A brief description of these plans includes:
- a) *General plans.* A general plan must include specified mandatory “elements,” including land use, circulation, conservation, open space, noise, safety, and housing. A general plan provides a long-term vision for the community’s growth, and includes goals, policies, and maps to guide decision making on zoning and particular projects. Cities’ and counties’ major land use decisions—including most zoning ordinances and other aspects of development permitting— must be consistent with their general plans. In this way, the general plan is a blueprint for future development.
 - b) *Specific plans.* Local agencies may also adopt specific plans that provide for the systematic implementation of a general plan in a particular area. Specific plans are an optional way to provide for the implementation of the

¹ Cite!

general plan for all or a portion of a community. Specific plans are often appropriate for larger infill development opportunities. They allow a community to determine the mix of uses, densities and development standards that are suitable to the site or sites but that may not be applicable to the jurisdiction as a whole.

- c) *Community plans.* Community plans address specific geographic areas of a city and build upon the more general citywide policies established in the general plan with policy recommendations that apply to the community and neighborhood level. Community plans provide the level of information and community-specific detail that is needed in order to review and assess proposed public and private development projects. While the community plan addresses community needs, its policies and recommendations must be consistent with the general plan, other community and resource plans, and citywide policies. Community plans also address other aspects of land use planning that are unique to their areas, such as mobility, community facilities, and urban design features and guidelines.

CEQA allows tiering review off these existing documents: a specific project, like a housing development or sports arena project that is already considered in a higher-level planning document (such as a general plan or a community plan), need only consider the aspects of the specific project that “are peculiar to the parcel or to the project” and that either were not addressed as significant effects in the plan’s EIR or that new information shows will be more significant than when the plan’s EIR was certified. (PRC§ 21083.3, CEQA Guidelines § 15183)

- 7) *Midway Rising Project.* The Midway Rising is a proposed development in the City of San Diego that covers 49 acres of City-owned land at the San Diego Sports Arena site in the Midway-Pacific Highway community. The project includes a 16,000 seat sports arena, 14 acres of parks and public space, a mixed use entertainment, arts, and cultural district, and 4,250 housing units (2,000 of which are affordable at 80% below area median income). The project is intended to replace an older stadium and associated parking lots. When built, Midway Rising will include one of the largest mixed-income and affordable housing projects in the State of California.

Comments

- 1) *Purpose of Bill.* According to the author, “The Midway Rising Project will transform nearly 50 acres of underused, blighted City-owned land into a vibrant, modern district that directly addresses our region’s housing shortage while delivering lasting economic and community benefits. It will deliver more

than 4,000 homes, including 2,000 affordable and income-restricted, a state-of-the-art sports and entertainment venue, and more than 14 acres of parks and open space. SB 958 is a targeted, catalytic solution to move this transformational project forward after years of planning, extensive environmental review, and voter approval through two separate ballot measures. The bill upholds environmental accountability and is explicitly contingent on the certification and adoption of the final Environmental Impact Report already completed by the City of San Diego.

“Once completed, Midway Rising is projected to generate millions in local economic impact, create thousands of permanent jobs, support new businesses, utilize a highly-skilled and trained workforce, and produce long-term economic opportunities and tax revenue for the City and County of San Diego. Proposed to be the largest affordable housing project in the western United States, Midway Rising carries significant statewide importance and promise. At a time when California faces an urgent housing crisis, SB 958 advances a meaningful solution for San Diego and the state.”

- 2) *Midway Rising’s planning problems.* The first hurdle facing Midway Rising has been that the proposed projects exceed the height limit restrictions in the area (the project would be 130 feet tall for housing or 165 feet tall for the stadium—but the project is located in an area with a 30-foot height restriction in a Coastal Height Limit Overlay Zone). This height restriction, established by a 1972 voter initiative, was intended to preserve coastal views, community character, and environmental quality. In 2018, the City updated the community plan for the area, assuming the height limit remained in place.

In 2020, the City of San Diego attempted to remove the height limit via a ballot measure. However, the measure, while approved by the voters, was invalidated for failing to comply with CEQA, since the EIR did not analyze the effects of buildings taller than the 30 foot height limit, and the court ruled it was not legal to put the ordinance before the voters without adequately informing them of the environmental impacts associated with taller buildings.

Following the invalidation of the first ballot measure, the City prepared a supplemental environmental impact report (SEIR) for its second City-sponsored ballot measure to exclude the area of the site project from its Coastal Height Limit Overlay Zone, that considered the impacts of the additional 100 feet height of the buildings above the current 30 foot limit.

Save Our Access, a nonprofit organization, challenged both the City’s actions, arguing that the SEIR failed to adequately analyze the environmental impacts

of allowing buildings taller than 30 feet, except for visual effects and neighborhood character. The Superior Court of San Diego County denied Save Our Access's petition for writ of mandate, finding the City's environmental review was sufficient. However, that ruling was appealed, and the appellate court held that the City's SEIR was inadequate because it failed to analyze the full range of environmental impacts associated with taller buildings and had relied too much on the 2018 Program EIR that only considered impacts for buildings 30 feet tall.

- 3) *'What is Environmental Impacts' for 500 points.* It is fair to consider that the environmental impacts for building a project 30 feet high could be different from the impacts of building one that is 130 or 165 feet tall. However, the court's ruling that the SEIR did not adequately consider those environmental effects related to building height include the following considerations:
- a) How could tall buildings in and around the Midway-Pacific Highway area influence dispersal of predicted emissions or odors?
 - b) Will noise reflected or refracted from taller buildings disturb sensitive species in or adjacent to the Midway-Pacific Highway area?
 - c) Will light from rows of buildings near the San Diego River disturb the lunar cycles of sensitive wildlife?
 - d) Will numerous tall buildings cause increased runoff that will impact sensitive habitats?
 - e) Will changed topography, noise, and light from new building heights fragment and disrupt the recognized wildlife corridor along the San Diego River?
 - f) If man-made structures draw [peregrine falcons] (or others) to the area for nesting, will the project otherwise impact them?

While some queries on the impacts of building height on the environment, including aesthetics, shadow, wind, and reflection, are routinely considered in applicable cases, several of the considerations in this particular ruling are unique to say the least, and as such it's not clear how Midway Rising's SEIR would have anticipated and included these specific environmental impacts.

Courts have discretion in evaluating whether or not the lead agency adequately considered the environmental impacts of the project. However, the Legislature has the capability to overturn judicial rulings related to CEQA. Most prominently in recent years was the specification in AB 1307 (Wicks Chapter 160, Statutes of 2023) that for residential projects, the effects of noise generated by project occupants and their guests on human beings is not a significant effect on the environment. A similar principle may be applied to Midway Rising's case in SB 958.

The author and committee may wish to remove the current portion of the bill, which creates a CEQA exemption for Midway Rising, and instead specify that the criteria by which Midway Rising's SEIR was deemed insufficient (for not examining impacts related to the height of the building such as impacts on air circulation, noise refraction, potential to attract peregrine falcons) shall not be considered significant effects on the environment for projects meeting certain, including that the use and density of the project is otherwise analyzed in a certified EIR.

- 4) *Committee amendments. Staff recommends the committee adopt the bolded amendments contained in comment 3 above.*

DOUBLE REFERRAL:

If this measure is approved by the Senate Environmental Quality Committee, the do pass motion must include the action to re-refer the bill to the Senate Local Government Committee

Related/Prior Legislation

AB 1307 (Chapter 160, Statutes of 2023) specifies that public higher education institutions do not have to consider alternative locations for a project when preparing an EIR for a residential or mixed-use housing projects if certain conditions are met and specifies that noise from residents does not constitute a significant environmental effect under CEQA.

AB 130 (Chapter 22, Statutes of 2025) creates a CEQA exemption for a housing development project (i.e., projects where at least two-thirds of the square footage is residential) that is up to 20 acres and in an infill area and not located on a sensitive site.

SOURCE: City of San Diego, Mayor Todd Gloria

SUPPORT:

Mayor Todd Gloria, City of San Diego

OPPOSITION:

Western Electrical Contractors Association

8 Individuals

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