



Legislation Text

File #: 19-0408, Version: 1

AGENDA REPORT REQUEST FOR CITY COUNCIL ACTION

DATE: 5/1/2019

TO: Honorable Mayor and City Council Members

FROM: Community Development Department

SUBJECT:

City Council consideration of Resolution No. 2019-007, amending and adopting Local Guidelines for Implementing the California Environmental Quality Act 2019. (Pub. Resources Code §§ 21000 et seq.)

RECOMMENDED ACTION:

That the City Council adopt Resolution No. 2019-007, amending and adopting Local Guidelines for Implementing the California Environmental Quality Act 2019 (Pub. Resources Code §§ 21000 et seq.)

ANALYSIS:

Public agencies are required to adopt implementing procedures for administering their responsibilities under the State Guidelines for the California Environmental Quality Act (CEQA). These procedures include provisions on how the local agency will process environmental documents and provide for adequate comment, time periods for review, and lists of permits that are ministerial actions and projects that are considered categorically exempt. Each year the City's Local Guidelines for Implementing CEQA are updated to reflect legislative and legal changes in the law. A comprehensive update to the State CEQA Guidelines was approved by the Office of Administrative Law on December 28, 2018. The update entails changes to nearly 30 different sections of the State CEQA Guidelines, the addition of new sections and amendments to the initial study checklist which is Appendix G of the State Guidelines. The City's local initial study checklist is Form J (long form) and Form C (short list) in the City's Local Guidelines for Implementing CEQA.

Public agencies are required to comply with the amendments to the State CEQA Guidelines no later than 120 days after the effective date of the guideline amendments, which is April 29, 2019. Hence, the reason for the amendment and adoption of Corona's Local Guidelines for Implementing CEQA.

The following is a summary of the most notable changes to certain sections in the Local CEQA Guidelines based on adopted legislation or case law.

Section 1.10 Time of Preparation

Section 1.10 was added to the Local Guidelines to reflect existing case law and revisions to the State CEQA Guidelines regarding when CEQA review must be completed. The revision emphasizes the need to complete CEQA review before project approval; it also addresses when CEQA review is necessary for activities preceding project approval.

Section 3.08 Emergency Projects

Section 3.08 of the Local Guidelines has been amended to clarify the applicability of CEQA's exemption for emergency projects. Among other things, the section has been amended to explain that exempt emergency repairs may include those repairs that require a reasonable amount of planning to address an anticipated emergency.

Section 3.19 Exemption for Infill Projects in Transit Priority Areas

Section 3.19 has been amended to reflect the statutory exemption set forth in Public Resources Code section 21155.4 and State CEQA Guidelines section 15182. Section 3.19 exempts residential, mixed-use, and certain commercial projects from CEQA where the project is located within a transit priority area, is consistent with a specific plan, and is consistent with regional plans for reducing greenhouse gas emissions.

Section 3.20 Exemption for Residential Projects Undertaken Pursuant to a Specific Plan

Section 3.20 reflects the statutory exemption set forth in Government Code section 65457 and State CEQA Guidelines section 15182, which exempt certain residential projects consistent with a specific plan. When a public agency has certified an Environmental Impact Report for a specific plan, a residential project undertaken pursuant to and in conformity with that specific plan is generally exempt from CEQA, unless after its adoption one of the events specified in Public Resources Code Section 21166 are present. In that circumstance, the public agency must adopt a subsequent EIR or supplement to an EIR on the specific plan.

Section 3.22 Categorical Exemptions

The Class 1 categorical exemption set forth in Local Guidelines Section 3.22 generally exempts, among other activities, minor alterations to existing facilities, provided the activity involves negligible or no expansion of use. The Class 1 exemption has been revised to clarify that a lead agency may determine whether an activity involves negligible or no expansion of use based on the facility's "existing or former use," not just the use existing at the time of the lead agency's determination.

Section 4.03 Completion and Adoption of Negative Declaration

Section 4.03 has been amended to reflect revisions to the State CEQA Guidelines regarding the time

to complete a Negative Declaration. The revision provides that the City must generally complete a Negative Declaration within 180 days of accepting a complete application, but that a one-time 90-day extension is permissible with the project applicant's consent.

Section 5.01 Preparation of Initial Study

Section 5.01 has been amended to clarify the various arrangements the City, as Lead Agency, may use to prepare an Initial Study (e.g., preparing an Initial Study with the City's own staff, contracting with another entity to prepare an Initial Study, etc.).

Section 5.09 Determining the Significance of Transportation Impacts

One of the most significant revisions to the State CEQA Guidelines concerns a change in how transportation impacts must be analyzed under CEQA. A new section has been added to the State CEQA Guidelines, Section 15064.3, that provides that "vehicle miles traveled," or VMT, shall be the most appropriate measure of transportation impacts. VMT refers to the amount and distance of automobile travel attributable to a project.

Under Section 15064.3, VMT shall replace a proposed project's effect on automobile delay generally measured by "level of service" or LOS as the appropriate measure for transportation impacts. Moreover, a project's effect on automobile delay shall no longer constitute a significant transportation environmental impact under CEQA. Accordingly, a project that makes congestion worse but will not result in significant VMT will not be considered to have a significant environmental impact, and a project with no effect on congestion but with a significant VMT impact will normally be considered to have a significant environmental impact under Section 15064.3. Public agencies have until July 1, 2020, to implement VMT thresholds for analysis under CEQA.

Section 5.09 to the Local Guidelines acknowledges the City's election to be governed by Section 15064.3 before July 1, 2020. Moreover, Section 5.09 includes the threshold of significance to be adopted by the City with this resolution. Section 5.09 provides that the City will normally determine that a project will have a significant transportation impact if:

- The project would increase the total daily vehicle miles traveled per service population (population plus employment) (VMT/SP) above the baseline level for the jurisdiction; or
- The project would cause total daily VMT within the study area to be higher than the *No Project* alternative under cumulative conditions.

The latter refers to the city's VMT threshold established in the General Plan buildout condition.

Section 5.16 Consultation with Water Agencies Regarding Large Development Projects

Section 5.16 has been amended to reflect the addition of a new subdivision (f) to State CEQA Guidelines Section 15155; the new subdivision and Section 5.16 describe the content requirements for a water supply analysis under CEQA.

Section 5.19 Climate Change and Greenhouse Gas Emissions

Section 5.19 has been revised to reflect a series of amendments to Section 15064.4 of the State CEQA Guidelines, which seeks to assist lead agencies in determining whether a project's greenhouse gas emissions will have a significant effect on the environment.

Sections 6.04 & 7.03 Consultation with Public Transit Agencies

Sections 6.04 and 7.03 have been supplemented with new language providing that the City should consult with public transit agencies before circulating a Notice of Intent to Adopt a Negative Declaration or a Notice of Preparation of Draft Environmental Impact Report (EIR) where (1) the public transit agency has facilities within one-half mile of the proposed project, and (2) the proposed project is one of statewide, regional, or areawide significance.

Section 7.19 Consideration of Energy Impacts

Section 7.19 has been supplemented with new language that was added to State CEQA Guidelines Section 15126.2 requiring analysis of a project's energy impacts. The new language further requires mitigation for significant environmental impacts resulting from wasteful, inefficient, or unnecessary use of energy or energy resources.

Section 7.20 Environmental Setting

Section 7.20 is a new section that reflects revisions to State CEQA Guidelines Section 15125 concerning an EIR's description of the environmental baseline. The new language explains that while the environmental baseline should normally reflect conditions as they exist at the time of publication of the Notice of Preparation a lead agency may define the environmental baseline by referencing historic or future conditions in certain circumstances. The new language additionally explains that lead agencies may not use a baseline based on hypothetical allowable conditions, such as those that might be allowed but have never actually occurred under existing permits or plans.

Section 7.22 Analysis of Mitigation Measures

Section 7.22 has been revised, consistent with revisions to State CEQA Guidelines Section 15126.4, to clarify that a lead agency may not defer identification of mitigation measures, but that deferral of specific details of mitigation until after project approval may be permissible under certain circumstances.

Section 7.30 Response to Comments on Draft EIR

Section 7.30 has been revised to clarify the scope of a lead agency's duty to respond to comments on a Draft EIR. The section has been revised to state that the City may respond to a general comment with a general response. The section has further been revised to provide that the City may provide its proposed written response to a commenting public agency in an electronic format.

Changes to the CEQA Initial Study Checklist (Local Guidelines Form "J")

The comprehensive update to the State CEQA Guidelines included substantial revisions to Appendix "G" which is the Initial Study checklist form. In response to the changes the City's local CEQA checklist which is Form "J" of the Local Guidelines was changed to be consistent. The updated Form "J" would be used to determine whether a proposed project may have a significant environmental impact for which an EIR is required. The most significant revisions to Form "J" are summarized below.

Section VI. Energy

A new section regarding a project's energy impacts has been added to the checklist. As a result, the City must now consider a proposed project's energy impacts at the Initial Study stage.

Section XVII Transportation

As discussed above, Section 15064.3 of the State CEQA Guidelines now provides that VMT is the most appropriate measure of transportation impacts. To reflect this change, Appendix "G" of the State CEQA Guidelines has been revised to provide that a project may result in a potentially significant impact if the project conflicts or is inconsistent with Section 15064.3(b) (i.e., if the proposed project results in VMT exceeding an applicable threshold of significance).

The Transportation section of Form "J" was changed to acknowledge Section 15064.3 and incorporates the following two thresholds of significance that is being adopted by the City with this update.

- Would the project increase the total daily vehicle miles traveled per service population (population plus employment) (VMT/SP) above the baseline level for the jurisdiction?
- Would the project cause total daily VMT within the study area to be higher than the *No Project* alternative under cumulative conditions (General Plan buildout condition)?

Section XIX. Wildfire

A new section regarding a project's potential to result in or exacerbate wildfire impacts has been added to Form "J." The City must analyze the questions posed within this section for any project "located in or near state responsibility areas or lands classified as very high fire hazard severity zones."

City Council Study Session

The City Council at its study session meeting on April 24, 2019, was given a presentation on the implementation of SB 743 related to the city's proposed threshold of significance for vehicle miles traveled (VMT). The city's threshold of significance for identifying transportation impacts on the

environment is noted in Section 5.09 of the Local CEQA Guidelines and is being adopted in conjunction with the guidelines. The city published a public notice on March 28, 2019, providing information on the proposed threshold of significance and the date and time of the City Council study session. The public notice also allowed the public to provide comment on the proposed threshold of significance until end of day on April 24, 2019. No public comments were submitted during the public comment period.

COMMITTEE ACTION:

Not applicable.

STRATEGIC PLAN:

Not applicable.

FISCAL IMPACT:

The adoption of the Local CEQA Guidelines has no fiscal impact on the General Fund.

ENVIRONMENTAL ANALYSIS:

The adoption of the Local CEQA Guidelines is not considered a project under CEQA; therefore, no further environmental analysis was required.

PREPARED BY: JOANNE COLETTA, COMMUNITY DEVELOPMENT DIRECTOR

REVIEWED BY: KERRY D. EDEN, ASSISTANT CITY MANAGER/ADMINISTRATIVE SERVICES DIRECTOR

REVIEW BY: MICHELE NISSEN, ASSISTANT CITY MANAGER

SUBMITTED BY: MITCHELL LANSDELL, ACTING CITY MANAGER

Attachments:

1. City Resolution No. 2019-007 (Corona's 2019 Local Guidelines for Implementing CEQA attached).
2. Redlined version of 2019 Local Guidelines for Implementing CEQA.