Governor Brown signed Senate Bill 743 (Steinberg, 2013) in September 2013, which made several changes to the California Environmental Quality Act (CEQA) for projects located in areas served by transit (i.e., transit-oriented development or TOD). Those changes direct the Governor’s Office of Planning and Research to develop a new approach for analyzing the transportation impacts under CEQA. SB 743 also creates a new exemption for certain projects that are consistent with a Specific Plan and, eliminates the need to evaluate aesthetic and parking impacts of a project, in some circumstances. These changes are described in greater detail below. Note, terms with a specific meaning defined in the law are displayed in bold, with definitions provided at the bottom of this page.

Why Focus on Transit Oriented Development?

Studies by the California Department of Transportation, the US Environmental Protection Agency, and the Metropolitan Transportation Commission have found that focusing development in areas served by transit can result in local, regional and statewide benefits, including:

- Increased transportation choices
- Increased public safety
- Increased transit ridership
- Reduced vehicle miles traveled
- Increased household disposable income
- Reduced air pollution and energy consumption
- Conservation of natural resources and open space
- Increased economic development
- Increased affordable housing
- Reduced local infrastructure costs

However, transit-oriented development faces many hurdles, including regulatory barriers. As explained below, SB 743 addresses some of those barriers by changing CEQA requirements for certain types of TOD.

What is the CEQA exemption for projects that are consistent with a Specific Plan?
SB 743 creates a new exemption from CEQA for certain projects that are consistent with a Specific Plan. (See New Public Resources Code Section 21155.4.) A Specific Plan is a local plan that contains specific policies and development regulations for a defined area such as a downtown core or along a transit corridor. The exemption applies if a project meets all of the following criteria:

1. It is a residential, employment center, or mixed use project;
2. It is located within a transit priority area;
3. The project is consistent with a specific plan for which an environmental impact report was certified; and
4. It is consistent with an adopted sustainable communities strategy or alternative planning strategy.

The exemption cannot be applied if the project would cause new or worse significant impacts compared to what was analyzed in the environmental impact report for the specific plan. In that case, supplemental environmental review must be prepared.

In a preliminary review of existing specific plans, OPR identified over 100 specific plans throughout California that might enable use of this exemption. Other potentially-eligible specific plans are under development.

What about traffic, parking and aesthetics?

In addition to the new exemption for projects that are consistent with specific plans, SB 743 also changes the way that transportation impacts are analyzed under CEQA. (See New Public Resources Code Section 21099.) More details on the development of alternative transportation metrics is available here. Once the CEQA Guidelines are amended to address the new transportation methodologies, auto delay will no longer trigger an impact finding under CEQA. This change will occur at least within transit priority areas, and possibly throughout the state.

In addition, a project’s aesthetic and parking impacts will no longer be considered significant impacts on the environment if:

1. The project is a residential, mixed-use residential, or employment center project, and
2. The project is located on an infill site within a transit priority area.

Notably, the exemption for aesthetic impacts does not include impacts to historic or cultural resources. Local governments retain their ability to regulate a project’s transportation, aesthetics, and parking impacts outside of the CEQA process.

Some of the terms in SB 743 are unfamiliar. What do they mean?

Some of the key terms used in SB 743 are defined below.
“Consistent with an adopted sustainable communities strategy or alternative planning strategy” means that a project is consistent with “with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization’s determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emissions reduction targets.”

“Employment center project” means “a project located on property zoned for commercial uses with a floor area ratio of no less than 0.75 and that is located within a transit priority area.”

“Infill site” means “a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.”

“Transit priority area” means “an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations.”

“Major transit stop” means “a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.” Metropolitan planning organizations may be able to assist in identifying existing and planned major transit stops.

Other relevant definitions are contained in the new Public Resource Code Section 21099.

Governor’s Office of Planning and Research, last updated October 4, 2013.