

CATEGORICAL EXEMPTIONS

Introduction

Categorical exemptions are identified by the State Resources Agency for “classes” of projects as defined in the CEQA Guidelines (§§15300-15333) that have been determined not to have a significant effect on the environment and are therefore exempt from the provisions of CEQA to prepare environmental documents. These exemptions are intended to save agencies, and by extension, the public, time and resources. Agencies can complete a simple discretionary preliminary review to utilize a categorical exemption, which clears the project from typical environmental review under CEQA (CEQA Guidelines §15354).

There are three classes of categorical exemptions that can be utilized to streamline housing projects:

- ▶ **Class 3.** Small Structures
- ▶ **Class 26.** Acquisition of Housing for Housing Assistance Programs, and
- ▶ **Class 32.** Infill Development Projects.

However, practitioners should be aware that projects that may otherwise meet the qualifications for one of the classes of categorical exemptions may be excluded from using a categorical exemption based on a series of exceptions identified in CEQA Guidelines §15300.2, that if triggered, prohibit the application of a categorical exemption.

The worksheets included herein provide a framework for a lead agency to conduct a preliminary review in order to:

1. decide whether the categorical exemption applies;
2. determine whether there are any exceptions that would prevent the use of a categorical exemption; and
3. substantiate the decision to use a categorical exemption or, alternatively, require further CEQA review.¹

¹ While findings are not required, the best way to substantiate the decision is to include documentation in a staff report or a memo.



CEQA Does Not Apply to Ministerial Projects

Public Resources Code §21080(b) states that CEQA does not apply to actions over which public agencies exercise only ministerial authority with no discretionary decision. CEQA does not apply to an agency’s ministerial decision-making. A “ministerial” decision is one involving little or no personal judgment. (PRC §21080 (b); CEQA Guidelines §15369). As ministerial projects are already not subject to CEQA, exemptions should be used when only a project requires discretionary approval.

Class 3: New Construction or Conversion of Small Structures (§15303)

The Class 3 Categorical Exemption consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. This exemption allows:

- ▶ either 1 single family unit or a second unit*, or
- ▶ a duplex or similar multi-family use with up to 4 units*.

*In [urbanized areas](#) additional units are allowed, up to 3 single family or 6 multifamily units.

See [Class 3 Worksheet](#) to determine applicability along with the Exceptions Worksheet to determine whether any of the exceptions may disqualify the project from using the Class 3 Categorical Exemption.

Note: AB 52 Tribal Consultation does not apply to projects that are exempt from CEQA and only applies to projects for which a Notice of Preparation, Notice of Mitigated Negative Declaration, or Notice of Negative Declaration is filed.

Class 26: Acquisition of Housing for Housing Assistance Programs (§15326)

The Class 26 exemption may be used by a redevelopment agency, housing authority, or other public agency for actions involving implementation of adopted Housing Assistance Plans by acquiring an interest in housing units. The housing units may be either in existence or possessing all required permits for construction when the agency makes its final decision to acquire the units.

Class 32: In-Fill Projects (§15332)

The Class 32 exemption may be used for infill housing approvals for projects that are on sites of less than 5 acres within city limits surrounded by urban uses. This class of projects are characterized as in-fill development meeting the following conditions:

- The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- The project site has no value as habitat for endangered, rare or threatened species.
- Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- The site can be adequately served by all required utilities and public services.

See [Class 32 Worksheet](#) along with the Exceptions Worksheet to determine whether any of the exceptions may disqualify the project from using the Class 32 Categorical Exemption.



Exemption for Residential or Mixed-Use Housing in Unincorporated Areas

The Class 32 Categorical Exemption for Infill Projects is only applicable to projects within City limits. Public Resources Code (CEQA Statute) §21159.25 exempts infill development with similar criteria as Class 32 that are located within unincorporated areas.

See Residential or Mixed-Use Housing Project in Unincorporated Area [Exemption Worksheet](#).



Exceptions to the Use of Categorical Exemptions

CEQA Guidelines §15300.2 identifies the following exceptions that may disqualify a project from using a categorical exemption:

- a. Location.** Class 3 is qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact the environment may, in a particularly sensitive environment, be significant. Therefore, this class is considered to apply to all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. Note that Classes 26 and 32 are not qualified by this location consideration.
 - b. Cumulative Impact.** All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
 - c. Significant Effect.** A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
 - d. Scenic Highways.** A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.
 - e. Hazardous Waste Sites.** A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to §65962.5 of the Government Code.
 - f. Historical Resources.** A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.²
- See [Exceptions Worksheet](#) to determine whether any of the exceptions may disqualify the project from using one of the Categorical Exemptions.

² An historical resource is a resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources (Public Resources Code §21084.1)

Did you Know? Location and Unusual Circumstances Exceptions

- ▶ The exceptions to the applicability of a categorical exemption underscore the need to pay attention to critical resource sensitivities and unusual circumstances. The “location” exception applies where the project may result in a significant impact on a particularly hazardous or sensitive environmental resource of critical concern. (Berkeley Hills Watershed Coalition v. City of Berkeley 2019)
- ▶ When the court reviews whether a significant effect may occur because of unusual circumstances, it first considers the presence of an unusual circumstance. The court would defer to the lead agency’s judgment based on its substantial evidence. If an unusual condition is present, the court then would apply the fair argument standard about whether the project may result in a significant environmental effect. (Berkeley Hillside Preservation v. City of Berkeley 2015)



Practice Tip: PREPARE A NOTICE OF EXEMPTION (NOE)

1. Local agencies should file the NOE with the County Clerk within five days following project approval, which starts a 35-day statute of limitations period on legal challenges to the agency’s decision that the project is exempt from CEQA. If a Notice of Exemption is not filed, a 180-day statute of limitations will apply. An NOE shall contain:
 2. A brief description of the project,
 3. The location of the project,
 4. A finding that the project is exempt from CEQA, including a citation to the State Guidelines section or statute under which it is found to be exempt (if more than one exemption applies to the project, list all exemptions that apply),
 5. A brief statement of reasons to support the finding, and
 6. The applicant’s name, if any.
 7. If different from the applicant, the identity of the person undertaking the project which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies or the identity of the person receiving a lease, permit, license, certificate, or other entitlement for use from one or more public agencies.

Note: A lead agency must retain the NOE for at least one year (Public Resources Code §21152[c]). While note required, it is recommended that lead agencies also post the NOE on their website.

The worksheets that follow may be used to help the lead agency determine if the project would qualify for any of these Categorical Exemptions, and whether any of the exceptions apply.

The purpose of this material is to provide guidance, which agencies and other entities may use at their discretion. This guidance does not alter lead agency discretion in decision-making, independent judgment and analysis, and preparing environmental documents for project or governmental action subject to CEQA requirements. This material is for general information only and should not be construed as legal advice or legal opinion.

WORKSHEETS

Class 3 Categorical Exemption – Small Structures

Requirements	Applicability	Yes	No	N/A
<p>One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.</p> <p>A duplex or similar multi-family residential structure, totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes and similar structures designed for not more than six dwelling units.</p>	<p>Is the project within the maximum number of units?</p>			
<p>Do any of the exceptions identified in CEQA Guidelines Section 15300.2 apply?</p>	<p>See separate Exceptions Worksheet below.</p>			

Class 32 Categorical Exemption – Infill Development

Requirements	Applicability	Yes	No	N/A
(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.	<p>Is the project consistent with General Plan Designation, policies, and zoning?</p> <p>Are there design exceptions that have no environmental impacts?</p>			
(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.	<p>Site within city limits?</p> <p><i>(Note: If located within unincorporated area, review PRC §21159.25 for eligibility of exemption for residential or mixed-use housing projects.)</i></p>			
	Site 5 acres or less?			
	Surrounded by urban development?			
(c) The project site has no value as habitat for endangered, rare or threatened species.	<p>Does the site contain trees, vegetation, wetlands/ waters/riparian habitat that can support Special Status Species?</p> <p><i>(Tip: Run a CNDDDB database search at www.wildlife.ca.gov/Data/CNDDDB/Maps-and-Data)</i></p>			
(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.	The project does not include roadway or transportation system changes beyond site ingress/egress.			
	<p>The project does not include a new stationary noise source.</p> <p><i>(Note: Stationary noise sources are typically associated with mechanical equipment rather than housing, especially a small housing project.)</i></p>			
	<p>The project does not include a new source of air pollutant emissions.</p> <p><i>(Note: Stationary air pollution sources may be associated with even small housing projects and may require air permits.)</i></p>			
	The project would not result in changes in site drainage that cannot be addressed through best management practices (BMPs) to prevent erosion and construction pollutants from contacting stormwater.			

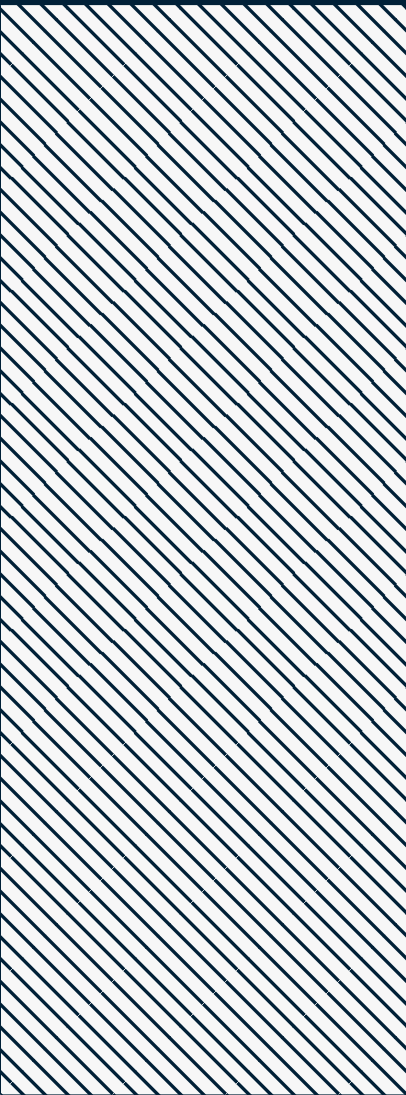
Requirements	Applicability	Yes	No	N/A
(e) The site can be adequately served by all required utilities and public services.	The site is adequately served by utilities: (i.e., water, wastewater, electricity, natural gas, solid waste, stormwater drainage)			
Do any of the exceptions identified in CEQA Guidelines Section 15300.2 apply?	See separate Exceptions Worksheet below. <i>(Note: The Location exception does not apply to Class 32.)</i>			

Exceptions to Categorical Exemptions

(CEQA Guidelines §15300.2)

Requirements	Applicability	Yes	No	N/A
<p>(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, this class of exemptions is considered to apply in all instances, except where the project may impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.</p>	<p>Are there any known sensitive resources or hazardous conditions onsite, where there is a reasonable possibility that the project would result in a significant impact?</p>			
<p>(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.</p>	<p>Are there other projects of the same type nearby that over time,, that when the project is added, have the potential to result in cumulative impacts (even if individually less than significant)?</p>			
<p>(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.</p>	<p>Are there any unusual circumstances surrounding the project or site that could be triggered? Consider the following environmental topics:</p>			
	<p>Aesthetics: Will the project add substantial light/glare?</p>			
	<p>Agriculture/Forestry: Does the site contain agricultural land or forested land? <i>(Tip: Check for Important Farmland at www.conservation.ca.gov/dlrp/fmmp)</i></p>			

Requirements	Applicability	Yes	No	N/A
	<p>Air Quality/GHGs:</p> <p>Will the project include a new source of air pollutant emissions? <i>(Note: Stationary air pollution sources may be associated with even small housing projects and may require air permits.)</i></p>			
	<p>Biological Resources:</p> <p>Does the site contain:</p> <ul style="list-style-type: none"> • Wetlands? • Riparian Habitat? • Special Status Species Habitat? <p><i>(Tip: Run a CNDDDB database search at www.wildlife.ca.gov/Data/CNDDDB/Maps-and-Data)</i></p>			
	<p>Cultural Resources: See (f) below.</p>			
	<p>Energy: Will the project comply with current building code/Title 24 Energy Code?</p>			
	<p>Geology/Soils:</p> <p>Will the project comply with current building code?</p> <p><i>(Note: Compliance with the building code, other regulatory provisions, and geotechnical investigations, addresses site-specific soil conditions and ensures seismic safety.)</i></p> <p>Is the project within a seismic hazard zone (i.e., Alquist-Priolo Fault Hazard)?</p>			
	<p>Hazards/Hazardous Materials: See (e) below.</p>			
	<p>Hydrology/Water Quality:</p> <p>Will the project implement best management practices (BMPs) to prevent erosion and construction pollutants from contacting stormwater?</p>			
	<p>Noise: Will the project include a new stationary noise sources?</p> <p><i>(Note: Stationary noise sources are typically associated with mechanical equipment rather than housing, especially a small housing project.)</i></p>			

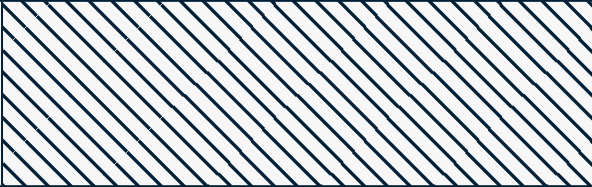
Requirements	Applicability	Yes	No	N/A
	<p>Transportation:</p> <p>Will the project include roadway or transportation system changes beyond site ingress/egress?</p>			
	<p>Utilities/Public Services:</p> <p>Is site served by:</p> <ul style="list-style-type: none"> • Water? • Wastewater? • Electricity? • Natural Gas? • Solid Waste? • Stormwater drainage? <p><i>(Note: For rural areas without water or wastewater service, check for a code-compliant well and a code-compliant septic system.)</i></p>			
	<p>Wildfire Hazard:</p> <p>Is the site in a high fire hazard severity zone?</p> <p>(Tip: Check for fire-hazard severity zones here: https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/)</p>			
<p>(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.</p>	<p>Is the site within a state scenic highway?</p> <p>(Tip: Check for scenic highway status at dot.ca.gov/programs/design/lap-landscapearchitecture-and-community-livability/lap-liv-iscenic-highways)</p>			

Requirements	Applicability	Yes	No	N/A
<p>(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.</p>	<p>Is the site listed as a hazardous waste site? <i>(Tip: Search the Cortese List at calepa.ca.gov/sitecleanup/corteselist/section-65962-5a)</i></p>			
<p>(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.</p>	<p>Does the site include historical resources? <i>(Tip: Check for listed historical resources at ohp.parks.ca.gov/ListedResources)</i> <i>(Note: An historical resource is a resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources [Public Resources Code §21084.1])</i></p>			

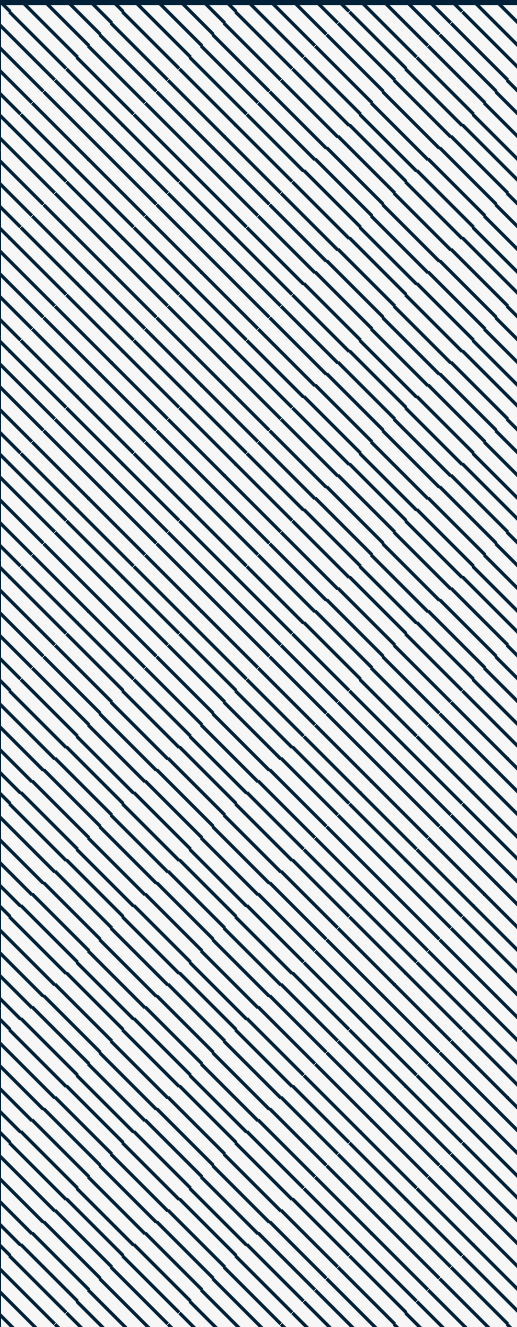
Residential or Mixed-Use Housing Project in Unincorporated Area Exemption (PRC §21159.25)

Requirements	Applicability	Yes	No	N/A
<p>(a) For purposes of this section, the following definitions apply:</p> <p>(1) "Residential or mixed-use housing project" means a project consisting of multifamily residential uses only or a mix of multifamily residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.</p>	Does the project consist of at least 2/3 of the square footage for residential use?			
<p>(2) "Substantially surrounded" means at least 75 percent of the perimeter of the project site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. The remainder of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that have been designated for qualified urban uses in a zoning, community plan, or general plan for which an environmental impact report was certified.</p>	Is the project site at least 75% surrounded by developed urban uses? And is the remaining portion of the site surrounded by urban designated uses that have been approved with a certified EIR?			
<p>(b) Without limiting any other statutory exemption or categorical exemption, this division does not apply to a residential or mixed-use housing project if all of the following conditions described in this section are met (this exemption applies to a residential or mixed use housing project if all of the following conditions described in this section are met):</p>				

Requirements	Applicability	Yes	No	N/A
<p>(1) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.</p>	<p>Is the project consistent with General Plan Designation, policies, and zoning?</p>			
<p>(2)</p> <p>(A) The public agency approving or carrying out the project determines, based upon substantial evidence, that the density of the residential portion of the project is not less than the greater of the following:</p> <p>(i) The average density of the residential properties that adjoin, or are separated only by an improved public right-of-way from, the perimeter of the project site, if any.</p> <p>(ii) The average density of the residential properties within 1,500 feet of the project site.</p> <p>(iii) Six dwelling units per acre.</p>	<p>Is the density not less than the greater of the following:</p> <ul style="list-style-type: none"> • average density of adjoining residential properties • Average density of residential properties within 1,500 feet • 6 du/ac 			
<p>(B) The residential portion of the project is a multifamily housing development that contains six or more residential units.</p>	<p>Is the project a multifamily housing development with at least 6 units?</p>			
<p>(3) The proposed development occurs within an unincorporated area of a county on a project site of no more than five acres substantially surrounded by qualified urban uses.</p>	<p>Is the project within an unincorporated area?</p>			
	<p>Is the project site less than 5 acres?</p>			
	<p>Is the site substantially surrounded by qualified urban uses.</p>			
<p>(4) The project site has no value as habitat for endangered, rare, or threatened species.</p>	<p>The site does not contain trees, vegetation, wetlands/waters/riparian habitat that can support Special Status Species</p> <p><i>(Tip: Run a CNDDDB database search at www.wildlife.ca.gov/Data/CNDDDB/Maps-and-Data)</i></p>			

Requirements	Applicability	Yes	No	N/A
<p>(5) Approval of the project would not result in any significant effects relating to transportation, noise, air quality, greenhouse gas emissions, or water quality.</p>	<p>The project does not include roadway or transportation system changes beyond site ingress/egress.</p>			
	<p>The project does not include a new stationary noise sources.</p> <p><i>(Note: Stationary noise sources are typically associated with mechanical equipment rather than housing, especially a small housing project.)</i></p>			
	<p>The project does not include a new source of air pollutant or GHG emissions.</p> <p><i>(Note: stationary air pollution sources are typically associated with industrial processes rather than housing, especially a small housing project.)</i></p>			
	<p>The project would not result in changes in site drainage that cannot be addressed through best management practices (BMPs) to prevent erosion and construction pollutants from contacting stormwater.</p>			
<p>(6) The site can be adequately served by all required utilities and public services.</p>	<p>The project site is served by water, wastewater, electricity, natural gas, solid waste, and stormwater drainage.</p>			
<p>(7) The project is located on a site that is a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.</p>	<p>Is the site within an urbanized area or urban cluster as designated by the US Census Bureau?</p> <p><i>(Tip: Check status at www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural/2010-urban-rural.html)</i></p>			
<p>(c) Subdivision (b) does not apply to a residential or mixed-use housing project if any of the following conditions exist:</p>				
<p>(1) The cumulative impact of successive projects of the same type in the same place, over time is significant.</p>	<p>There are no other projects nearby, that when the project is added, have the potential to result in cumulative impacts (even if individually less than significant).</p>			

Requirements	Applicability	Yes	No	N/A
<p>(2) There is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.</p>	<p>There no unusual circumstances surrounding the project or site that could be triggered.</p> <p>Consider the following environmental topics:</p>			
	<p>Aesthetics: The project would not add substantial light or glare or degrade the quality or character of the surrounding area.</p>			
	<p>Agriculture/Forestry: The site does not contain agricultural land or forested land <i>(Tip: Check for Important Farmland at www.conservation.ca.gov/dlrp/fmmp)</i></p>			
	<p>Air Quality/GHG: The project does not include a new source of air pollutant emissions <i>(Note: Stationary air pollution sources are typically associated with industrial processes rather than housing, especially a small housing project.)</i></p>			
	<p>Biological Resources: The project site does not contain, wetlands, riparian habitat, or special status species habitat. <i>(Tip: Run a CNDDDB database search at www.wildlife.ca.gov/Data/CNDDDB/Maps-and-Data)</i></p>			
	<p>Cultural Resources: The site does not contain structures listed as historic resources.</p>			
	<p>Energy: The project will comply with current building code/Title 24 Energy Code.</p>			
	<p>Geology/Soils: The project is not within a seismic hazard zone and will comply with current building codes for seismic and other geotechnical considerations. <i>(Note: Compliance with the building code, other regulatory provisions, and geotechnical investigations, addresses site-specific soil conditions and ensures seismic safety.)</i></p>			

Requirements	Applicability	Yes	No	N/A
	<p>Hazards/Hazardous Materials: The project site is not listed as a hazardous materials waste site (See (e) below).</p>			
	<p>Hydrology/Water Quality: The project will implement best management practices (BMPs) to prevent erosion and construction pollutants from contacting stormwater.</p>			
	<p>Noise: The project does not include a new stationary noise sources. <i>(Note: Stationary noise sources are typically associated with mechanical equipment rather than housing, especially a small housing project.)</i></p>			
	<p>Transportation: The project does not include roadway or transportation system changes beyond site ingress/egress.</p>			
	<p>Utilities/Public Services: The project is served by adequate water, wastewater, electricity, natural gas, solid waste, and stormwater drainage. <i>(Note: For rural areas without water or wastewater service, check for a code-compliant well and a code-compliant septic system.)</i></p>			
	<p>Wildfire Hazard: The site is not located within a high fire hazard severity zone. <i>(Tip: Check for fire-hazard severity zones at osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildland-hazards-building-codes/fire-hazard-severity-zones-maps)</i></p>			
<p>(3) The project may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.</p>	<p>The site is not within a state scenic highway. <i>(Tip: Check for scenic highway status at dot.ca.gov/programs/design/lap-landscapearchitecture-and-community-livability/lap-liv-iscenic-highways)</i></p>			

Requirements	Applicability	Yes	No	N/A
<p>(4) The project is located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.</p>	<p>The site is not listed as a hazardous waste site.</p> <p><i>(Tip: Search the Cortese List at calepa.ca.gov/sitecleanup/corteselist/section-65962-5a)</i></p>			
<p>(5) The project may cause a substantial adverse change in the significance of a historical resource.</p>	<p>The site does not include historical resources.</p> <p><i>(Tip: Check for listed historical resources at ohp.parks.ca.gov/ListedResources)</i></p>			