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New SEQRA amendments: What developers and land-use professionals need to know - by Andrea Tsoukalas Curto

May 21, 2019 - Front Section

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The first major State Environmental Quality Review Act (SEQRA) revisions since 1996 took effect January 1, 2019. The amendment has expanded upon the list of Type II actions, with the goal of supporting policies that favor green infrastructure, renewable energy and smart growth. One of the highlights of the new revisions is that a project that involves redevelopment of an existing building could be classified as a Type II action and would not require the SEQRA process. This is a major relief to developers.

While the Type II list has expanded, some Type I thresholds have been lowered, meaning that more projects may be classified as Type I and require SEQRA review. For example, the threshold number for triggering a Type I action has been lowered for the construction of new residential units seeking to be connected to existing community or public water sewerage systems. Additionally, the revisions have expanded on the types of historic classifications which would convert an Unlisted action to a Type I action. This expansion becomes an additional hurdle for developers and property owners alike.

The amendments have also added new scoping requirements. While scoping was previously optional, the amendments now make it mandatory for all EIS.

The DEC has made efforts to modernize the SEQRA process and make it more transparent. Most notably, the amendments have expanded on the list of Type II actions with a goal of encouraging “green” building. Developers will now benefit from the new list of projects that are no longer subject to SEQRA review. However, where actions are considered Type I or Unlisted and have received a Positive Declaration, the process will become more onerous, and now include mandatory scoping.

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