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Project No: 21-11690

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Subject: CEQA Exemption Memorandum for Madera County 2024-2032 Housing Element Update, Safety Element Update, Environmental Justice Element Update, Zoning Code Text Amendments, and Rezoning

This memorandum provides an analysis to support the determination by Madera County (the lead agency) that the proposed Madera County 2024-2032 Housing Element Update, Safety Element Update, Environmental Justice Element Update, Zoning Code Text Amendments and Rezoning ("proposed project") are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3) ("general rule" or "common sense exemption"). The proposed project falls within the sphere of the general rule or common sense exemption, that CEQA applies only to development which have the potential for causing a significant effect on the environment, and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the project is not subject to CEQA.

Project Background

As part of the 6th cycle Housing Element Update, jurisdictions are required to identify housing sites that provide the development capacity to accommodate build out of the assigned Regional Housing Needs Allocation (RHNA) at all income levels. To accommodate the County's RHNA need for all income levels, future housing development would occur through a variety of methods, including development of planned and approved projects, development of accessory dwelling units (ADU), and rezoning of sites for housing. Housing elements are also required to consider ways to promote access to housing that is attainable for residents at all income levels, beyond focusing solely on opportunities for production of new units.

The proposed project would amend the Madera County General Plan by replacing the current Housing Element, Safety Element, and Environmental Justice Element with the proposed 2024-2032 Housing Element, updated Safety Element, and updated Environmental Justice Element. The proposed Housing Element establishes programs, policies, and actions to further the goal of meeting the existing and projected housing needs of all income levels of households in unincorporated Madera County and provides evidence of the County's ability to accommodate the RHNA through the year 2032, as established by the Madera County Transportation Commission (MCTC). Additionally, the proposed project would amend the Madera County Zoning Code with text-only changes to ensure consistency between the Zoning Code and the 2024-2032 Housing Element Update and State law. The project would also rezone sites identified in the Housing Element for rezoning, as well as additional sites identified by the County.

Exemption Analysis

In order to determine if the proposed project is exempt, we reviewed potential CEQA exemptions that may apply to the proposed project. The following analysis determines if the proposed project can be considered exempt from CEQA.

Categorical Exemption

Pursuant to CEQA Guidelines Section 15300, "Categorical Exemption" means an exemption from CEQA for a class of projects based on a finding by the Secretary for Resources that the class of projects does not have a significant effect on the environment.

CEQA Guidelines Sections 15300.2(a) through (f) list specific exceptions for which a Categorical Exemption may not be used. These exceptions are as follows:

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, these classes are 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.

The proposed project involves the adoption of policy documents (Housing Element Update, Safety Element Update, and Environmental Justice Element), text changes to the Zoning Code for consistency with the proposed Housing Element and State law, and rezoning of specific sites. The project does not in and of itself propose development; proposed rezoning would allow for a different level of development than is currently permitted, but does not include specific development projects on the identified rezone sites. As such, the proposed project does not identify individual development sites and, therefore, would not impact an environmental resource of hazardous or critical concern. The proposed project does not trigger this exception.

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.

The proposed project involves the adoption of policy documents (Housing Element Update, Safety Element Update, and Environmental Justice Element), text changes to the Zoning Code for consistency with the proposed Housing Element and State law, and rezoning of specific sites. The project does not in and of itself propose development; proposed rezoning would allow for a different level of development than is currently permitted, but does not include specific development projects on the identified rezone sites. While other 6th Cycle Housing Element Updates are also occurring in the region, each Housing Element applies to a specific jurisdiction and do not overlap geographically. Because the proposed project does not involve or approve physical development, the proposed project would not result in impacts that are cumulatively considerable. In addition, through the County's development review process, future development projects would be evaluated for potential cumulative impacts and for consistency with all applicable policies of the County's General Plan, Zoning Ordinance, and County Code, in addition to other federal, state, or local requirements that may apply to a future development project. Through this development review process, potential cumulative impacts to various natural and human-made resources would be evaluated. Therefore, implementation of the proposed project would not contribute to significant cumulative impacts, the proposed project does not trigger this exception.

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.

Due to the absence of unusual circumstances related to the project or on the plan area, the project would not have a reasonable possibility for a significant effect on the environment due to unusual circumstances and this exception does not apply.

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.

According to the California Department of Transportation,[1] there are no state-designated highways within Madera County. There are two eligible state-designated scenic highways within Madera County: the segments of State Routes 41 and 49 that run through the City of Oakhurst. However, the proposed project involves the adoption of a policy document, text changes to the Zoning Code for consistency with the proposed Housing Element and State law, and rezoning of specific sites. The project does not in and of itself propose development; proposed rezoning would allow for a different level of development than is currently permitted, but does not include specific development projects on the identified rezone sites. The proposed project does not include specific development projects, but facilitates density needed to accommodate the 6th cycle RHNA. Because specific development projects are not proposed at this time, the County cannot assess the specific impacts of development on scenic resources. Future development projects would be subject to the policies listed in the General Plan and project-specific development review to ensure compliance with development standards and conditions of approval, which may include environmental review. The proposed project does not trigger this exception.

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.

The proposed project involves the adoption of a policy document, text changes to the Zoning Code for consistency with the proposed Housing Element and State law, and rezoning of specific sites. The project does not in and of itself propose development; proposed rezoning would allow for a different level of development than is currently permitted, but does not include specific development projects on the identified rezone sites. The proposed project does not include specific development projects, but facilitates density needed to accommodate the 6th cycle RHNA. Because specific development projects are not proposed at this time, the County cannot assess the specific impacts of development on hazardous waste sites. Future development projects would be subject to the State and local regulations regarding the treatment of hazardous materials, and project-specific development review to ensure compliance with development standards and conditions of approval, which may include environmental review. The proposed project does not trigger this exception.

[1] California Department of Transportation. 2025. California State Scenic Highway System Map. https://caltrans.maps.arcgis.com/apps/webappviewer/index.html?id=465dfd3d807c46cc8e8057116f1aacaa (accessed January 2025).

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.

The proposed project involves the adoption of a policy document, text changes to the Zoning Code for consistency with the proposed Housing Element and State law, and rezoning of specific sites. The project does not in and of itself propose development; proposed rezoning would allow for a different level of development than is currently permitted, but does not include specific development projects on the identified rezone sites. The proposed project does not include specific development projects, but facilitates density needed to accommodate the 6th cycle RHNA. Because specific development projects are not proposed at this time, the County cannot assess the specific impacts of development on historical resources. Future development projects would be subject to the State and local regulations regarding the treatment of historical resources, and project-specific development review to ensure compliance with development standards and conditions of approval, which may include environmental review. The proposed project does not trigger this exception.

Common Sense Exemption

Pursuant to CEQA Guidelines Section 15061(b)(3), also known as the "general rule" or "common sense" exemption, CEQA exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. The CEQA Guidelines state in that section that "A project is exempt from CEQA if… [t]he activity is covered by common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

Whether a particular activity qualifies for the common sense exemption is a question of fact that is supported by substantial evidence submitted in connection with the project (*CREED-21 v. City of San Diego* (2015) 234 Cal.App.4th 488, 510). The analysis must identify reasonably foreseeable physical changes and consider any environmental impacts that may result from those changes (*Wal–Mart Stores, Inc. v. City of Turlock* (2006) 138 Cal.App.4th 273, 291; *Muzzy Ranch Co. v. Solano County Airport Land Use Com.*(2007) 41 Cal.4th 372, 386).

The proposed project involves the adoption of a policy document, text changes to the Zoning Code for consistency with the proposed Housing Element and State law, and rezoning of specific sites. The project does not in and of itself propose development; proposed rezoning would allow for a different level of development than is currently permitted, but does not include specific development projects on the identified rezone sites. The proposed project does not propose or approve any physical development, and will not result in changes to the physical environment, nor will it result in potential environmental impacts. Furthermore, to ensure adequate factual support for the common sense exemption, an Initial Study has been completed analyzing each area of potential impact. The Initial Study determined that there would be no environmental impacts that would result from approval of the proposed project. As such, as shown in Attachment 1, Initial Study, the proposed project meets the criteria for the common sense exemption as identified above.

Determination

Based on the analysis provided in this memorandum, the proposed Madera County 2024-2032 Housing Element Update, Safety Element Update, Environmental Justice Element Update, Zoning Code Text Amendments and Rezoning meet the criteria for a common sense exemption pursuant to Sections 15061(b)(3) of the CEQA Guidelines. Furthermore, exceptions to the applicability of a CE, as specified in section 15300.2(a) through (f) of the CEQA Guidelines, do not apply to the project. Therefore, it is concluded that the project is exempt from CEQA pursuant to the common sense exemption under CEQA Guidelines Section 15061(b)(3).

Sincerely,
Rincon Consultants, Inc.

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Attachments

Attachment 1 Initial Study – Common Sense Exemption

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Attachment 1

Initial Study – Common Sense Exemption