

**MEMORANDUM**

TO: Jesse Davis
Chief Planning Manager

FROM: Kelly Clark
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DATE: August 19, 2024

RE: CEQA Categorical Exemption, Marlene Street Condominiums Minor Subdivision and Rezone

Introduction

Terra Nova Planning & Research has undertaken a comprehensive review of the proposed Minor Subdivision and Rezone associated with the Marlene Estates Condominiums to determine whether the Project qualifies for a Categorical Exemption under the California Environmental Quality Act (CEQA). The City has preliminarily determined that the Project is exempt as allowed by CEQA Guidelines Section 15301, Class 1, Existing Facilities and Section 15315, Class 15, Minor Land Divisions. The purpose of this technical memorandum is to determine whether the exemption is appropriate in this case.

Project Location

The Marlene Estates Condominiums are located at 960-979 Marlene Street on a 2.3-acre site in the City of Ukiah. The northeastern 1.07 acres of the site includes an open space area and uncovered parking for the condominiums. (See Figure 1). The site is bordered by multi-family residential to the north, U.S. Route 101 and active agricultural fields to the east, single-family residential and a vacant field to the south, and single-family residential to the west. (See Figure 2)

Project History

The site is currently zoned Planned Development – Marlene Estates Condominiums (PD) with a General Plan land use designation of Medium-Density Residential (MDR). While it is a Planned Development, it is not subject to the Marlene Estates Planned Development #14, as it predated that approval. The Approval of Use Permit No. 80-40, SDP No. 80-42 included construction of 20 apartment units and a tennis court. Subdivision No. 82-85 and Use Permit modified Use Permit No. 80-40 for conversion of the 20 apartment units to individual condominiums existing today at 960-979 Marlene St. While the approval of the condominium subdivision was deferred until 1986, various resolutions extended and amended the development, including Resolution Number 85-29, which amended open space amenities by removing the proposed tennis court and adding a pool, as well as requiring the open-space area to be irrigated and landscaped

Figure 1: Project Site Vicinity



Figure 2: Project Site



Project Description

The 2.3-acre Project site is currently developed with 20 condominiums, a shared swimming pool, parking, and open space common areas, which occur primarily on the southern half of the parcel. The applicant is requesting a Minor Subdivision and Rezone of the site.

The Minor Subdivision would subdivide the 2.3-acre site into two parcels. As proposed, Parcel 1 would be 1.23 acres and retain the existing condominiums, as well as the off-street parking structures, recreation improvements, and accessory buildings associated with those units. Parcel 2 would be 1.07 acres and include the existing uncovered parking area and its driveway, fencing and open space lawn area.



The applicant also requests to remove the associated Planned Development combining zone, which was originally assigned in 1980 per Use Permit No. 80-40. Removal of this combining zone would align the property with the existing MDR (Medium Density Residential) land use designation. The R-2 zone would align with the undeveloped R-2 zoning designated parcels to the south and would be appropriate given the underlying land use designations of adjacent properties to the north and west.

No new development is proposed at this time.

General Plan Conformance

The property maintains a Medium Density Residential General Plan Designation, which is intended to provide land for a range of residential densities and a variety of housing types and ownerships, including townhomes, multiple family residential development, and more urban-scale density development. The designation features a minimum density of 15 du/ac and a maximum density of 28 du/acre. Per the Ukiah 2040 General Plan, this housing, which lies between the low end of Medium Density Residential (MDR - 1-14 units/acre) and the high end of High Density Residential (HDR- 1-28 units/acre) is often referred to as “Missing Middle” housing and can include a mix of housing types including duplexes, triplexes, fourplexes, cottage courts/clusters, and townhomes.

It is notable that the subject property has maintained a Medium Density Residential Designation since the early 1980’s.

CEQA CATEGORICAL EXEMPTIONS

The California Environmental Quality Act (CEQA) requires that the City evaluate the potential environmental effects of proposed development projects and other major land use actions. CEQA Guidelines section 15300 et. seq., describes Categorical Exemptions, which are projects that have been determined not to have a significant effect on the environment and which are, therefore, exempt from the provisions of CEQA and its requirements for the preparation of environmental documents.

Exemption Analysis

There are two Categorical Exemptions that cover the type of project currently proposed: Class 1 and Class 15. The Project technically meets the key considerations for the Class 1, Existing Facilities Categorical Exemption, which allows for the negligible or no expansion of use. In addition, Class 15, Minor Land Divisions, allows for the division of property in urbanized areas zoned for residential use so long as the property is divided into four or fewer parcels and is in conformance with the General Plan.

The following discussion considers and analyzes these exemptions in relation to the Project.

15301. EXISTING FACILITIES

Per CEQA Guidelines Section 15301, Class 1 categorical exemption reads as follows:

“Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The types of “existing facilities” itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of use.

Examples include but are not limited to:

- (a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;*
- (b) Existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;*
- (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety), and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes);*
- (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;*

- (e) *Additions to existing structures provided that the addition will not result in an increase of more than:*
 - (1) *50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or*
 - (2) *10,000 square feet if:*
 - (A) *The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and*
 - (B) *The area in which the project is located is not environmentally sensitive.*
- (f) *Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices;*
- (g) *New copy on existing on and off-premise signs;*
- (h) *Maintenance of existing landscaping, native growth, and water supply reservoirs (excluding the use of pesticides, as defined in Section 12753, Division 7, Chapter 2, Food and Agricultural Code);*
- (i) *Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife waterway devices, streamflows, springs and waterholes, and stream channels (clearing of debris) to protect fish and wildlife resources;*
- (j) *Fish stocking by the California Department of Fish and Game;*
- (k) *Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt;*
- (l) *Demolition and removal of individual small structures listed in this subdivision:*
 - (1) *One single-family residence. In urbanized areas, up to three single-family residences may be demolished under this exemption.*
 - (2) *A duplex or similar multifamily residential structure. In urbanized areas, this exemption applies to duplexes and similar structures where not more than six dwelling units will be demolished.*
 - (3) *A store, motel, office, restaurant, or similar small commercial structure if designed for an occupant load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial buildings on sites zoned for such use.*
 - (4) *Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.*
- (m) *Minor repairs and alterations to existing dams and appurtenant structures under the supervision of the Department of Water Resources.*
- (n) *Conversion of a single family residence to office use.*
- (o) *Installation, in an existing facility occupied by a medical waste generator, of a steam sterilization unit for the treatment of medical waste generated by that facility provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.*
- (p) *Use of a single-family residence as a small family day care home, as defined in Section 1596.78 of the Health and Safety Code.”*

The proposed Project is consistent with the definition of a Class 1 exemption because it consists of a Minor Subdivision and Rezone of a property involving no expansion of existing use. The Rezone would align the site's zoning with the existing General Plan land use designation, providing for the for use of allowances in the R-2 zone, and including the City's Objective Design & Development Standards. No development is proposed at this time, and future development would require additional permits and be analyzed on a project level basis for consistency with MDR land use policies and R-2 development standards.

The existing condominiums occurring on the south half of the property will not be modified or demolished, but will remain in their current use. The density allowed under the Marlene Estates Planned Development and the R-2 zone are consistent for this parcel, and no increase in density or intensity is proposed. The division of the site into two parcels does not impact the density allowed under the General Plan's Medium Density Residential designation, which allows 15 to 28 units per acre. The Rezone allows up to 15 units per acre for both the existing units on the south parcel, and the land included in the northern parcel.

The division of the two parcels could allow additional units on the northerly parcel in the future, but as described above, would require additional analysis at the time a specific project is proposed. Significantly, additional development on this northerly parcel is allowed under the General Plan's Medium Density Residential designation, and its Rezone brings consistency between the General Plan and the Zoning ordinance, in conformance with the requirements of State law.

15315. MINOR LAND DIVISIONS

Per CEQA Guidelines Section 15315, the Class 15 categorical exemption reads as follows:

“Class 15 consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent.”

The Project is consistent with the definition of the Class 15 exemption because the proposed Minor Subdivision would divide the site into two parcels (less than four), and the proposed Rezone is consistent with the Medium Density Residential General Plan Designation the property has maintained since the early 1980's. No variances or exceptions are requested. All services and access to the parcels are currently available to the site, and the site was not involved in a division of a larger parcel within the last 2 years. The site has been previously graded and developed, is relatively flat, and does not have an average slope greater than 20 percent.

15300.2 CEQA EXCEPTIONS TO CATEGORICAL EXEMPTIONS

CEQA Guidelines section 15300.2 establishes six (6) exceptions to categorical exemptions, listed below. Following each exception is an analysis of how it applies or does not apply to the proposed Project.

1. 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 if 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 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.

Applicability to the proposed Project: The Project is subject to Class 1, Existing Facilities, and Class 15, Minor Land Divisions, and is not subject to Classes 3, 4, 5, 6 or 11. Therefore, the Project is not subject to the location exception.

2. 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.

Applicability to the proposed Project: There is no evidence that the Minor Subdivision and Rezone would have a significant cumulative impact on the environment. The site's current General Plan land use designation is Medium Density Residential (MDR). The 2040 General Plan increased the density for MDR to 15 – 28 DU/AC, while the proposed Rezone to R-2 limits the maximum density to 15 DU/AC. Based on the analysis provided in the 2040 General Plan EIR, the Project proposes a decrease in intensity of development when compared to the site's MDR land use designation analyzed in the EIR. Therefore, future development of the site under the R-2 zone would marginally reduce traffic, air quality and greenhouse gas emissions associated with vehicle trips analyzed in the 2040 General Plan EIR. In addition, impacts associated with any land disturbance impact, such as biological resources, geology or hydrology, would be equivalent to those of any other development, because the site has been previously disturbed, and will be constructed upon regardless of the land use proposed should development be proposed in the future for the northerly parcel. The overall impact of the proposed Project will not cumulatively impact the environment.

3. 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.

Applicability to the proposed Project: There is no evidence that the Project would result in significant impacts, nor would significant impacts be expected from the Minor Subdivision or Rezone as there is no development proposed at this time. Future development will be subject to the same standards and requirements as any project in the city. As described above, the Rezone is consistent with the General Plan designation applied to the property, which was analyzed in the General Plan EIR. The Rezone imposes a density on the low range of the General Plan designation, and therefore will have moderately lesser impacts on the environment should future development be proposed on the northerly parcel. This exception does not apply to the Project.

4. 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.

Applicability to the proposed Project: The Project site is not located on or near a state or county designated or eligible scenic route. The site is currently developed and does not contain any scenic resources such as rock outcroppings or historical resources. While the site contains trees that could be considered a scenic resource, development is not proposed at this time that would physically alter the site. This exception does not apply to the Project.

5. 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.

Applicability to the proposed Project: Section 65962.5 requires that the Department of Toxic Substances Control compile a list of all hazardous waste facilities, properties, disposals, release sites and abandoned sites. The Project is not located on a cleanup site according to the Department of Toxic Substances Control (DTSC) EnviroStor database. The Project is not located on a LUST cleanup, military cleanup, or any other cleanup sites listed on the Water Board Geotracker database. This exception does not apply to the Project.

6. Historic 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.

Applicability to the proposed Project: The Project will not cause a substantial adverse change in the significance of a historical resource. There are no resources listed on the National Register of Historic Places on, or in the vicinity of, the subject property. There

are also no resources listed in the California Register of Historic Resources (Built Environment Resources Directory) on the Project site or in its immediate vicinity. The existing condominiums are not considered locally historically significant. This exception does not apply.

CONCLUSIONS

As described in the above analysis, the proposed Project is consistent with the terms of Class 1 and Class 15 under CEQA Guidelines sections 15301 and 15315, respectively. The exceptions to categorical exemptions detailed in CEQA Guideline section 15300.2 do not apply to the Project. Therefore, the Project is exempt from CEQA.