



# Community Development Department

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## NOTICE OF EXEMPTION

**Project Description:** The proposed project consists of a parcel map to subdivide an existing property consisting of three parcels (APN: 790-35-038, 039, & 054) into four residential lots on Gurries Drive in the City of Gilroy. The four new lots would be improved with an attached four-unit townhome development. The residential lots would range in size from approximately 1,879 square feet to approximately 2,250 square feet with a combined total area of 8,256 square feet. Each townhome unit would be accessed via new residential driveways fronting Gurries Drive.

### **Finding:**

The Planning Division has reviewed the above proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

- Ministerial Project
- Categorical Exemption
- Statutory Exemption [Pub. Resources Code § 21083.3; CEQA Guidelines § 15183]
- Emergency Project
- Quick Disapproval [CEQA Guidelines, 14 Cal. Code of Regs. 15270]
- No Possibility of Significant Effect [CEQA Guidelines, 14 Cal. Code of Regs. 15061(b)(3)]

**Supporting Reasons:** The project has been determined to be exempt from the California Environmental Quality Act (CEQA) under a Statutory Exemption pursuant to Public Resources Code section 21083.3 and State CEQA Guidelines section 15183 (Projects Consistent with General Plan, Community Plan or Zoning).

The California Environmental Quality Act (CEQA) allows a lead agency to avoid repeating analyses that were already provided in a certified General Plan EIR (Public Resources Code Section 21083.3) for projects that are consistent with the General Plan and the permitted density. Pursuant to section 21083.3(b), if a development project is consistent with the general plan of a local agency for which an environmental impact report was certified, the application of CEQA shall be limited to effects on the environment which are "peculiar to the parcel or to the project" and which were not addressed as significant effects in the prior environmental impact report, or which substantial new information shows will be more significant than described in the prior environmental impact report. Subsection (d) further indicates that an effect of a project upon the environment shall not be considered "peculiar to the parcel or to the project," "if uniformly applied development policies or standards" have been previously adopted by the city or county, with a finding that the development policies or standards will substantially mitigate that environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect. Under these provisions of CEQA, a project that is consistent with a General Plan that was adopted pursuant to a certified EIR, could be potentially partially or wholly exempt from CEQA.

Section 15183 of the State CEQA Guidelines provides further guidance to implement Public Resources Code section 21083. Specifically, if a project is consistent with an agency's General Plan for which an EIR has been certified, the agency shall limit its examination of environmental effects to those which the agency determines, in an initial study or other analysis:

- (1) Are peculiar to the project or the parcel on which the project would be located,
- (2) Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent,
- (3) Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or
- (4) Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR. (State CEQA Guidelines section 15183(b).)

CEQA Guidelines section 15183, subdivision (c) further provides that "if an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards,..., then an additional EIR need not be prepared for the project solely on the basis of that impact." "[D]evelopment policies or standards need not apply throughout the entire city or county, but can apply only within the zoning district in which the project is located...such policies or standards need not be part of the general plan or any community plan, but can be found within another pertinent planning document such as a zoning ordinance." (Guidelines, § 15183, subd. (f).)

On November 2, 2020, the Gilroy City Council adopted the General Plan 2030 after certifying an EIR for the plan. The Gilroy 2040 General Plan EIR (September 2020) includes the Draft EIR volume (June 2020) and the Final EIR volume (September 2020). The General Plan EIR reviewed all of the topics included in the City of Gilroy's adopted CEQA Thresholds of Significance that were in effect at the time the General Plan EIR was prepared.

The General Plan EIR is a "program" EIR prepared pursuant to State CEQA Guidelines Section 15168, which reviewed environmental impacts associated with future development and buildout within the City's planning area that would be accommodated by the General Plan. As indicated above, pursuant to Public Resources Code 21083.3, a development project that is consistent with a General Plan for which an EIR was certified may be exempt from CEQA analyses that were adequately covered in the General Plan EIR.

The project site is designated Medium Density Residential in the City's 2040 General Plan with an allowed density of 8-20 dwelling units per acre. The site is zoned in a Medium Density Residential District (R3). The proposed four residential townhome dwellings and associated land division is consistent with the General Plan land use designation and density. The site is located within an area designated for residential development, and multi-family residential subdivisions are located adjacent to the site. The immediate area has similar General Plan and zoning designations as the project property.

While the 2040 General Plan EIR considered the impacts of development on vacant or underutilized parcels in the City as a whole, specific future development of the project site was not noted or specifically evaluated in the 2040 General Plan EIR, and there were no site-specific impacts identified for the project site. However, as part of the overall estimated buildout, the EIR considered construction of new residential units in the City with an estimated buildout of 6,477

new residential units (3,199 single-family units and 3,278 multi-family) throughout the City by the year 2040. The four proposed residential units would be within the residential buildout estimates considered in the city-wide General Plan EIR impact analyses.

The potential project and site-specific impacts were analyzed and determined to be less than significant and/or less than significant with General Plan policies, zoning regulations and/or development standards that are uniformly applied to development projects throughout the City. There are no “unusual circumstances” that differentiates the project from the general class of similarly situated projects. Furthermore, the project would not result in any significant effects on the environment due to unusual circumstances (or features which are peculiar to the project or project site).

On July 7, 2022 and August 1, 2022, the Gilroy Planning Commission and City Council, respectively, considered the project and heard public testimony for and against the project. The City did not receive any substantial evidence prior to project approval that supported a conclusion that the project would result in significant environmental impacts peculiar to the project or site that would not be adequately mitigated by uniformly applied development policies and standards and project conditions approved for the project.

Thus, pursuant to Public Resources Code section 21083.3 and State CEQA Guidelines section 15183, no further environmental analysis is required.

08-04-2022

(Date)

*Cynthia McCormick*

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Customer Service Manager