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Project No: 22-13167

Guido Persicone, Community Development Director  
City of Marina  
Community Development Department  
211 Hillcrest Avenue  
Marina, California 93933  
Via email: gpersicone@cityofmarina.org

**Subject: CEQA Exemption Memorandum for Marina 2023-2031 Housing Element Update - City of Marina, Monterey County, California**

Dear Mr. Persicone:

This memorandum provides an analysis to support the determination by the City of Marina (the lead agency) that the proposed Marina 2023-2031 Housing Element Update is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) ("general rule" or "common sense"). This memorandum discusses the background of the proposed Housing Element Update, the requirements to apply the common sense exemption under CEQA, and the applicability of the common sense exemption to the proposed Housing Element Update.

## **Housing Element Update Background**

As part of the 6th cycle Housing Element update, cities are required to identify housing sites that provide the development capacity to accommodate build out of the City's Regional Housing Needs Allocation (RHNA) at all income levels. To accommodate the City's RHNA need for all income levels, future housing development would occur through a variety of methods, including development on vacant parcels, infill development in existing residential and commercial areas, and development of accessory dwelling units (ADU). 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 Marina 2023-2031 Housing Element Update, herein referred to as the HEU, would amend the Marina General Plan and replace the current Housing Element with the proposed 2023-2031 Housing Element. The proposed HEU would establish programs, policies, and actions to further the goal of meeting the existing and projected housing needs of all income levels of households in the Marina community, and provides evidence of the City's ability to accommodate the RHNA through the year 2031, as established by the Association of Monterey Bay Area Governments (AMBAG). The proposed HEU is a policy document, and Marina anticipates meeting its RHNA requirements for the 2023-2031 planning period without the need to rezone areas of the city.

## **The Common Sense Exemption**

The proposed HEU is being initiated by the City of Marina and would require discretionary approval from the City. Therefore, pursuant to CEQA Guidelines Section 15060(c), this activity is potentially



considered a project under CEQA. Pursuant to CEQA Guidelines Section 15061(a), the lead agency (in this case, the City of Marina) shall determine whether the project is exempt from CEQA.

Pursuant to CEQA Guidelines Section 15061(b), a project is exempt from CEQA if:

- (1) The project is exempt by statute (see, e.g. Article 18, commencing with Section 15260).
- (2) The project is exempt pursuant to a categorical exemption (see Article 19, commencing with Section 15300 [of the CEQA Guidelines]) and the application of that categorical exemption is not barred by one of the exceptions set forth in Section 15300.2.
- (3) The activity is covered by the 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.
- (4) The project will be rejected or disapproved by a public agency. (See Section 15270(b)).
- (5) The project is exempt pursuant to the provisions of Article 12.5 of this Chapter.

As stated in CEQA Guidelines 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity would result in a significant effect on the environment, the activity is not subject to CEQA. "A project that qualifies for neither a statutory nor a categorical exemption may nonetheless be found exempt under what is sometimes called the 'common sense' exemption, which applies '[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment'." (*Muzzy Ranch* at 380, citing CEQA Guidelines, § 15061(b)(3), and *Davidon Homes v. City of San Jose* (1997) 54 Cal.App.4th 106, 113-118). Whether a particular activity qualifies for the commonsense exemption presents an issue of fact. Substantial evidence supporting the exemption may be found in the information submitted in connection with the project to support that the agency considered reasonably foreseeable physical changes in the environment and the resulting possible environmental impacts in reaching its decision. (*Wal-Mart Stores, Inc. v. City of Turlock* (2006) 138 Cal.App.4th 273, 291; *CREED-21 v. City of San Diego* (2015) 234 Cal.App.4th 488, 510-512).

The following analysis demonstrates the HEU, as a policy document, would not have the potential to cause a significant effect on the environment and the common sense exemption applies.

## Exemption Analysis and Applicability

As stated under *Project Background* above, the HEU is a policy document that would replace the City's current Housing Element with the programs, policies, and actions proposed therein. The HEU does not include specific development projects; rather, it establishes policies and a housing plan to accommodate the 6th cycle RHNA. Additionally, the HEU would not require zoning or land use changes as part of its adoption or implementation, which could result in physical changes to the environment. Therefore, it would not facilitate increased development beyond what is allowed in the existing General Plan. Future housing development facilitated by the HEU would be subject to separate environmental review under CEQA and to compliance with the established regulatory framework, including federal, state, regional, and local regulations (e.g., Marina General Plan policies and Marina Municipal Code standards). Future housing development would also be subject to development review by the City.

Therefore, because the activity in question would involve adoption of a policy document which does not, in and of itself, include any proposed development, and would not require rezoning or facilitate development beyond what is currently allowed in the City's General Plan, there is no possibility that the HEU would have a significant effect on the environment, and it is not subject to CEQA.



Below is a brief analysis that demonstrates adoption of the HEU would not result in a direct or reasonably foreseeable indirect physical change in the environment. Environmental resources discussed are those on the *CEQA Guidelines* Appendix G Checklist. Since the HEU would not in and of itself include any proposed development or changes to the physical environment, the following analysis is provided for informational purposes only.

- **Aesthetics.** Adoption of the HEU would involve replacing the City's existing Housing Element and would not, in and of itself, include any proposed development. The proposed HEU does not require rezoning to accommodate the 6th cycle RHNA, and therefore does not facilitate increased development beyond what is allowed in the existing General Plan. As such, its implementation would not cause a substantial adverse effect on a scenic vista, damage scenic resources within a state scenic highway, create a new source of substantial light or glare, or otherwise alter the existing visual character of the city. Therefore, there is no possibility that the HEU would have a significant effect on the environment, and no significant effect to aesthetics would occur.
- **Agriculture and Forestry Resources, Biological Resources, Cultural Resources, Geology and Soils, Mineral Resources, and Tribal Cultural Resources.** Adoption of the HEU would involve replacing the City's existing Housing Element and would not, in and of itself, include any proposed development. The proposed HEU does not require rezoning to accommodate the 6th cycle RHNA, and therefore does not facilitate increased development beyond what is allowed in the existing General Plan. The HEU would not directly or indirectly involve land use changes or ground disturbance that would convert agricultural land to non-agricultural use; result in the loss or conversion of forest land; result in a substantial adverse effect to special status species, habitat, or wildlife movement; cause a substantial adverse change in the significance of a historic or archaeological resource, or human remains; cause substantial adverse effects related to seismicity, ground failure, erosion, or geologic stability; result in the loss of availability of a mineral resource; or cause a substantial adverse change in the significance of a tribal cultural resource. Therefore, there is no possibility that the HEU would have a significant effect on the environment. No significant effect to agriculture and forestry resources, biological resources, cultural resources, geology and soils, mineral resources, or tribal cultural resources would occur.
- **Air Quality, Energy, Greenhouse Gas Emissions, Noise, and Transportation.** Adoption of the HEU would involve replacing the City's existing Housing Element and would not, in and of itself, include any proposed development. The proposed HEU does not require rezoning to accommodate the 6th cycle RHNA, and therefore does not facilitate increased development beyond what is allowed in the existing General Plan. The HEU would not directly or indirectly involve construction or operational activities that would generate pollutant emissions, greenhouse gas emissions or noise, and would not directly or indirectly involve activities that increase energy demand, demand for transportation facilities, or vehicle trips. There is no possibility that the HEU would have a significant effect on the environment, and no significant effect to air quality, energy, greenhouse gas emissions, noise, or transportation would occur.
- **Hazards and Hazardous Materials, Hydrology and Water Quality.** Adoption of the HEU would involve replacing the City's existing Housing Element and would not, in and of itself, include any proposed development. The proposed HEU does not require rezoning to accommodate the 6th cycle RHNA, and therefore does not facilitate increased development beyond what is allowed in the existing General Plan. The HEU would not directly or indirectly involve the transport, use, or disposal of hazardous materials, nor create a significant hazard to the public or environment. Similarly, the HEU would not involve changes in land use or ground disturbance that would violate water quality standards, substantially decrease groundwater supplies, substantially alter existing drainage patterns, or release pollutants in a flood hazard,



tsunami, or seiche zone. There is no possibility that the HEU would result in a significant effect on the environment. No significant effect to hazards and hazardous materials or hydrology and water quality would occur.

- **Land Use and Planning.** Adoption of the HEU would involve replacing the City's existing Housing Element and would not, in and of itself, include any proposed development. The proposed HEU does not require rezoning to accommodate the 6th cycle RHNA, and therefore does not facilitate increased development beyond what is allowed in the existing General Plan. The HEU would not involve changes to the physical environment that would physically divide an established community, or result in conflicts with adopted policies and regulations that intend to avoid or mitigate and environmental effect. Therefore, there is no possibility that the HEU would have a significant effect on the environment, and no significant effect to land use and planning would occur.
- **Population and Housing, Public Services, Recreation, and Utilities and Service Systems.** Adoption of the HEU would involve replacing the City's existing Housing Element and does not, in and of itself, include any proposed development. The proposed HEU does not require rezoning to accommodate the 6th cycle RHNA, and therefore does not facilitate increased development beyond what is allowed in the existing General Plan. The HEU would not induce substantial unplanned population growth or displace substantial numbers of existing people or housing; result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities; or result in physical deterioration of existing parks or recreation facilities. Similarly, the HEU would not require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunication facilities; nor generate demand for water supply or solid waste service. As such, there is no possibility that the HEU would have a significant effect on the environment and no significant effect to these environmental resource areas would occur.
- **Wildfire.** Adoption of the HEU would involve replacing the City's existing Housing Element and would not, in and of itself, include any proposed development. The proposed HEU does not require rezoning to accommodate the 6th cycle RHNA, and therefore does not facilitate increased development beyond what is allowed in the existing General Plan. The HEU would not impair an adopted emergency response plan or emergency evacuation plan; exacerbate wildfire risks; require the installation or maintenance of infrastructure that may exacerbate fire risks; or expose people or structures to significant risks as a result of post fire slope instability or drainage changes. As such, there is no possibility that the HEU would have a significant effect on the environment, and no significant effect to wildfire would occur.

As discussed above, the HEU would not facilitate specific development projects nor require zoning or land use changes as part of its adoption or implementation, which could result in physical changes to the environment. The City of Marina currently has a sufficient number of available sites and appropriate zoning to accommodate the RHNA without zoning or land use changes. Therefore, it would not facilitate increased development beyond what is allowed in the existing General Plan. As demonstrated above, the HEU would not result in a direct or reasonably foreseeable indirect physical change in the environment and it is not subject to CEQA, pursuant to CEQA Guidelines Section 15060(c)(2). Additionally, as demonstrated above, it can be seen with certainty that there is no possibility that the HEU would have a significant effect on the environment and therefore the HEU is not subject to CEQA, pursuant to CEQA Guidelines Section 15061(b)(3). As such, the proposed HEU meets the criteria for the common sense exemption as identified above.



## **Determination**

Based on this analysis documented in this memorandum, the proposed 2023-2031 Housing Element Update meets the criteria for a common sense exemption pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Sincerely,

**Rincon Consultants, Inc.**

A handwritten signature in blue ink that reads "Kayleigh Limbach". The signature is written in a cursive, flowing style.

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A handwritten signature in blue ink that reads "Megan Jones". The signature is written in a cursive, flowing style.

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