



January 8, 2024
Project No: 20-10096

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Planning Division
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Via email: Jfernandez@bakersfieldcity.us

**Subject: CEQA Exemption Memorandum for Zoning Code Text Changes
City of Bakersfield, Kern County, California**

Dear Mr. Fernandez:

This memorandum provides an analysis to support the determination by the City of Bakersfield (the lead agency) that the proposed Zoning Code text changes 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”) and of Title 14, Article 18, 15620 of the California Code of Regulations (statutory). The proposed project falls within the sphere of the general rule or common sense rule, that CEQA applies only to development 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 project is not subject to CEQA.

Project Background

The proposed project includes text-only changes of the Bakersfield Zoning Code to promote the development of housing in the city and to ensure consistency with State law. These text changes in and of themselves would not result in growth or increased development in Bakersfield. Text changes include:

- New Zoning purpose statements
- Reduced minimum parcel size for the Residential Suburban (R-S) Zone from 24,000 square feet to 22,000 square feet. This zone would still allow for the accommodation of non-domesticated animals.
- Removal of the Estate, One-Family Dwelling (E) Zone.
- Reducing overall setbacks to expand development flexibility for all residential zones.
- New Very-High Density Multi-Unit Dwelling Zone (R-5) and Urban Core (R-6) Zone development standards.
- New tabular format for the land use and permit and development standards tables.
- Examination of permit requirements for the new Mixed-Use Zones
- Use of new terminology including:
 - “Single-unit/multi-unit” instead of “single-family/multi-family”
 - “Community Care Facility” instead of “Residential Care Facility”
 - “Places of Assembly” instead of “Churches”



- Added definitions for “Public and Quasi-Public Uses,” “Low-Barrier Navigation Center,” “New Mixed-Use,” “Mixed-Use, Horizontal,” and “Mixed-Use, Vertical.”
- Inclusion of Multi-Unit Objective Design Standards which are focused on-site development and orientation with some structure requirements.

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 reviews if the proposed project can be considered categorically exempt.

Categorical Exemption

Pursuant to CEQA Guidelines Section 15354, “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 CE may not be used. These exceptions are as follows:

- 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 text changes to the Zoning Code for consistency with State law and does not in and of itself include any proposed development. As such, the proposed project would not impact an environmental resource of hazardous or critical concern. Therefore, the proposed project does not trigger these exemption exceptions.

- 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 text changes to the Zoning Code for consistency with State law and does not in and of itself include any proposed development. 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 City’s development review process, future development projects would be evaluated for potential cumulative impacts and for consistency with all applicable policies of the City’s General Plan, Zoning Ordinance, and City Code. 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 these exemption exceptions.

- 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 project site, 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 (2023), there are no state designated scenic highway sections within or near the City of Bakersfield. The nearest designated Scenic Highway is Route 190 near Lone Pine, approximately 160 miles northeast of the project site. The nearest eligible scenic highway is Route 58 located near Mojave, approximately 59 miles east of the project site. The proposed project does not trigger these exemption exceptions.

- 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 adoption text changes to the Zoning Code for consistency with State law and does not in and of itself include any proposed development. The proposed project does not propose specific development projects, but facilitates residential development in the city. . Because specific projects are not known at this time, the City cannot assess the specific impacts of development in qualitative terms. All housing development proposals will be subject to the State and local regulations regarding the treatment of hazardous materials, and project-specific environmental review. Furthermore, proposals are subject to development standards and conditions of approval as part of the permitting process, including environmental review. The proposed project does not trigger this exemption.

- 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 text changes to the Zoning Code for consistency with State law and does not in and of itself include any proposed development. The proposed project does not propose specific development projects, but facilitates residential development in the city. Because specific projects are not known at this time, the City cannot assess the specific impacts of development in qualitative terms. All housing development proposals will be subject to the policies listed in the 2002 General Plan, and project-specific environmental review. Furthermore, proposals are subject to development standards and conditions of approval as part of the permitting process, including environmental review. The proposed project does not trigger this exemption.

Common Sense Applicability

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 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 adoption text changes to the Zoning Code for consistency with State law and does not in and of itself include any proposed development. The proposed project does not propose or approve any physical development. The proposed project is analyzed in the attached Initial Study and is not anticipated to result in any new changes to the physical environment.

The proposed project 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 this analysis documented in this memorandum, the proposed Zoning Code text changes 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 CEQA Guidelines Section 15061(b)(3)

Sincerely,
Rincon Consultants, Inc.

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Attachments

Attachment 1 Initial Study – Common Sense Exemption