



Attachment 2 – Supplemental Categorical Exemption Findings

Esperanza Carmel Commercial – JB Pastor Building – DR 23-140/UP 21-113/LM 20-394

Dolores Street 2 southeast of 7th Avenue

Planning Commission Agenda: July 10, 2024

This document provides supplemental information supporting the Categorical Exemption of the "JB Pastor" project (DR 23-140/UP 21-113/LM 20-394) from the California Environmental Quality Act (CEQA), State CEQA guidelines and local environmental regulations, pursuant to Section 15332 (Class 32) – In-Fill Developments. This exemption is intended to promote infill development within urbanized areas which are consistent with local general plan and zoning requirements. This class is not intended to be applied to projects which would result in any significant traffic, noise, air quality, or water quality effects. Such projects must meet Part 1 conditions (a) through (e) described in the analysis below and must not trigger exceptions to the exemption in Part 2.

Part 1: Qualifications

The proposed project meets the following thresholds:

- 1. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.***

The subject property has a General Plan land use designation of Core Commercial and is zoned SC, Service Commercial, which allows mixed-use development. The residential density, underfloor areas, participation in the in-lieu parking program, and the proposed increase in commercial floor area for the project both require a Conditional Use Permit issued by the Planning Commission. A lot merger application is also associated with the project to merge the three underlying lots into a single lot of record. The project conforms to General Plan policies and zoning regulations.

- 2. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.***

The project site is located within the city limits, is 12,000 square feet (.275 acres) in size and is surrounded on all sides by urban uses, specifically commercial and residential development, including other mixed use developments.

- 3. The project site has no value as habitat for endangered, rare or threatened species.***

The project site is not located within one of the city’s Environmentally Sensitive Habitat Area (ESHA) Overlays. The Coastal Resource Management Element of the General Plan/Local Coastal Program describes that a 1995 study of the City’s ESHA areas, prepared by Jones & Stokes, identified the following endangered, rare or threatened species:

- Mission Trail Nature Preserve: Hickman’s onion; Monterey ducky footed wood rat – state and/or federal species of concern; as well as potential habitats for other special-status species.
- Carmel Beach: Tidestom’s lupine –state and federal listed endanged species; black legless lizard – state species of special concern; as well as potential habitat for other special-status species.
- Pescadero Canyon: Pescadero Canyon is described as providing watershed protection and an important wildlife corridor but is not expressly identified as a habitat for protected species.

The subject site is not located in the ESHA overlay nor in any of the location identified above. The project site has no value as habitat for endangered, rare or threatened species.

4. *Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.*

a. Traffic

- i. The applicant has also provided a Traffic Analysis of the proposed project (refer to Attachment 6 of the associated Staff Report). The traffic analysis was prepared by Keith Higgins, PE, TE. The Traffic Analysis uses vehicle-miles-travelled (VMT) in the evaluation of environmental impacts under CEQA as required by SB 743. The City has not adopted a VMT policy which would include a methodology for performing this analysis, therefore the analysis was based on the “Technical Advisory on Evaluating Transportation Impacts in CEQA,” published by the State of California Governor’s Office of Planning and Research, which provides implementation guidance for SB 743 for evaluating development proposals.

As suggested by the OPR Technical Advisory for mixed-use projects, the two main components of the project, residential and commercial (retail), are analyzed separately.

Traffic Report Summary:

Residential Significance Criterion - In accordance with the OPR Technical Advisory on Evaluation Transportation Impacts in CEQA, projects that

generate or attract fewer than 110 trips per day generally may be assumed to cause a less-than-significant transportation impact.

Residential VMT Analysis - The 8 multi-family housing units are estimated to generate about 54 gross daily trips, which is below the 110 trips per day significance threshold. This component of the Project will have a less-than-significant VMT impact.

Retail Significance Criterion - In accordance with the OPR Technical Advisory on Evaluation Transportation Impacts in CEQA, retail development including stores larger than 50,000 square feet might be considered regional serving, and so lead agencies should undertake an analysis to determine whether the project might increase or decrease VMT.

Retail VMT Analysis – The retail component of the Project will include a total 9,000 net square feet of floor area with up to 7 separate units, which corresponds with a gross floor area of about 5,882 square feet. The overall floor area is far below the 50,000 square-foot threshold considered to be regional serving that would potentially result in a significant VMT impact. The types of uses anticipated in the Project will serve local clientele and visitors. The retail component of the Project will have a less-than-significant VMT impact.

During construction of the project, there will be additional vehicles near the project site, including construction equipment vehicles, deliveries and contractor personal vehicles. The city's Standard Conditions of Approval require implementation of a construction management plan to manage truck routes, construction vehicle circulation and parking, and potential sidewalk closures. With implementation of the construction management plan over the course of construction, traffic impacts during construction are not anticipated to have significant effects.

b. Noise

- i. Most of the Commercial neighborhoods experience a daily average of well below 65 dB which is the upper threshold for multi-family uses for being considered a "Normally Acceptable" range as described in the General Plan. The upper limit for commercial uses at a normally acceptable range is 70 dB. The additional 8 residential apartments nor the additional commercial spaces would substantially result in exceeding noise levels in the area and would be consistent with the normally acceptable noise levels, required by General Plan policies and the

Carmel Noise Ordinance. The project does not result in the addition of any new stationary noise sources outside of associated mechanical equipment, all of which would be required to comply with the city’s noise ordinance prescribed in CMC 17.28.020.

Section 21085 of the CEQA Guidelines further finds that *“for residential projects, the effects of noise generated by project occupants and their guests on human beings is not a significant effect on the environment.”*

Furthermore, all projects in the City are required to comply with General Plan policy P9-4, which ensures that construction activities are managed to minimize overall noise impacts on surrounding land uses, and policy P9-17, which enforces state laws regarding unmuffled or improperly muffled motor vehicles. Additionally, all projects must comply with Carmel Municipal Code Section 15.08.180, which sets forth hours of construction as follows,

For projects requiring a building permit, the permitted hours of construction shall be from 8:00 a.m. to 6:30 p.m. Monday through Saturday unless other specified hours are approved or required by the Building Official or the Director of the Department of Community Planning and Building. These hours apply in all land-use districts. For the purpose of this section, the term “hours of construction” is defined as all times when builders, contractors, work crews, or other persons associated with the project are present on the property and engaged in any Class B noise activities related to or including construction.

CMC 8.56 defines Class B noise as “noise created or generated within or adjacent to residential property which is necessary and normally associated with property maintenance and construction. Class B noise includes, but is not limited to, noise created by power equipment and tools, appliances, workshops, vehicle repairs, and testing and construction projects.”

CMC 8.56.040 states, “It shall be unlawful to create and emit Class B noise as defined in this chapter between the hours of 6:30 p.m. of one day and 8:00 a.m. of the following day.”

Adherence to all applicable General Plan policies and regulations of the Carmel Municipal Code will ensure that the project will have a less-than-significant impact from temporary noise increases during construction.

c. Air Quality

- i. The City of Carmel-by-the-Sea is located in the North Central Coast Air Basin, which is under the jurisdiction of the Monterey Bay Air Resources District (MBARD). The District has regulatory authority over stationary sources of air emissions, monitoring air quality within the air basin, providing guidelines for analysis of air quality impacts pursuant to CEQA, and preparing an air quality management plan to maintain or improve air quality in the air basin. The District has developed thresholds of significance for criteria air pollutants, which can be found in the District’s CEQA Air Quality Guidelines (2008).

Emissions from construction activities represent temporary impacts that are typically short in duration. Per the Monterey Bay Air Resources District CEQA Air Quality Guidelines (<https://www.mbard.org/ceqa>), construction emissions could potentially impact local air quality if grading and excavation activities disturb more than 2.2 acres per day. Projects above this threshold may have a significant impact on air quality. The project site is approximately .275 acres and is below the 2.2-acres of grading per day threshold and would not result in a significant impact to air quality.

The City of Carmel-by-the-Sea requires all projects to adhere to Best Management Practices (BMPs) that include reducing emissions from construction equipment. Adherence to the BMPs has been maintained as part of the Standard Conditions of Approval.

A standard city requirement of all construction projects is the submission of a hazardous materials waste survey in conformance with Monterey Bay Air Resources District. Identification of any hazardous substances such as lead or asbestos are subject to State regulations for handling and disposal during construction.

d. Water Quality

- i. CMC 17.43, Water Quality Protection Ordinance, intends to protect and enhance the coastal waters in accordance with policies in the City’s Local Coastal Plan, the California Coastal Act, and the City’s National Pollutant Discharge Elimination System (NPDES) Phase II Permit requirements. Section 17.43.030 requires that during the construction phase of a development project, an erosion and drainage control plan shall be prepared and submitted. The plan shall include a site-specific erosion control plan that includes controls on grading, best management practices (BMPs) for staging, storage, and disposal of construction materials, design specification of sedimentation basins and landscaping/revegetation of graded or disturbed areas. All new development and redevelopment within the

City shall comply with the requirements in Chapter 17.43, Water Quality Protection Ordinance.

The applicant/project is required compliance with the NPDES water quality standards identified in the City's Municipal Code and the City's standard conditions of approval would ensure that applicable water quality standards are met. Therefore, construction activities associated with the project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality.

5. *The site can be adequately served by all required utilities and public services.*

The project site is in a heavily developed urban area currently served by all required public utilities and services.

The proposed project consists of 8 residential units, parking, and a commercial shell with up to 7 business spaces, which would be a minor increase in utility and public service use at the site over what exists today. However, these uses will not significantly adversely affect police or fire protection services or result in the construction of new schools or parks and other public facilities and is allowable in the zoning ordinance and General Plan limits set forth for this building site. Utility services including wastewater, sewer, and landfill facilities have adequate capacity for the proposed project, or the project has been conditioned appropriately to verify adequate capacities or supply prior to building permit issuance.

Part 2: Exceptions

Application of this exemption, as all categorical exemptions, is limited by the factors described in CEQA Guidelines Section 15300.2. None of these exceptions apply, as described in the discussion below.

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 in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply 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.*

- a. This possible exception applies only to CEQA exemptions under Classes 3, 4, 5, 6 or 11. Since the project qualifies as a Class 32 Urban Infill exemption, this criterion is not applicable.

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.*

- a. No successive projects on the project site are proposed, known, or expected to occur over time that would result in cumulatively considerable impacts.

3. Unusual Circumstances. 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.

- a. The proposed project would not result in any significant impacts due to unusual circumstances and remains in context and consistent with the existing conditions in the downtown area, General Plan policies, and zoning requirements, all of which supports mixed-use development.

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.

- a. The proposed project is not located within or immediately adjacent to a highway officially designated as a state scenic highway.

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.

Government Code Section 65962.5 requires the Department of Toxic Substances Control to submit a list of (1) All hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code. (2) All land designated as hazardous waste property or border zone property pursuant to former Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code. (3) All information received by the Department of Toxic Substances Control pursuant to Section 25242 of the Health and Safety Code on hazardous waste disposals on public land. (4) All sites listed pursuant to Article 5 (commencing with Section 78760) of Chapter 4 of Part 2 of Division 45 of the Health and Safety Code.

On June 21, 2024, City staff reviewed the California Environmental Protection Agency Cortese List of Data Sources (<https://calepa.ca.gov/sitecleanup/corteselist/>) and confirmed that the project site is not on any of the following lists:

- Hazardous Waste and Substances Site List (<https://www.envirostor.dtsc.ca.gov/public/>).
- State Water Resources Control Board GeoTracker for leaking underground storage tanks (<https://geotracker.waterboards.ca.gov/search>).

- State Water Resources Control Board list of solid waste disposal sites (<https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/SiteCleanup-CorteseList-CurrentList.pdf>).
- State Water Resources Control Board list of solid waste disposal sites (<https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/SiteCleanup-CorteseList-CurrentList.pdf>).
- State Water Resources Control Board list of active discharge of waste or hazardous materials (<https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/SiteCleanup-CorteseList-CDOCAOList.xlsx>).
- Additionally, the project site has not been identified as a hazardous waste facility under Health and Safety Code Section 25187.5 (<https://calepa.ca.gov/sitecleanup/corteseList/section-65962-5a/>).

6. 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.

- a.** Section 15064.5(b)(1) of the CEQA Guidelines explains that a “substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.” Materially impaired is further defined in Section 15064.5(b)(2) and includes the following:

- A) *Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources; or*
- B) *Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or*
- C) *Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.*

The Carmel Municipal Code further states that’s that a “Substantial adverse change” (also “significant adverse impact or effect”) in the significance of an historical resources shall

mean “physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired” per CEQA Guidelines (2003) Section 15064.5(4)(b)(1) and any subsequent amendments thereto.

Lots 6 and 8 of the project site are located on a Historic Resource (known as the “Northern California Saving and Loan Complex”, referred to herein as “Complex”) and were subject to the Historic Evaluation Process for Major Alterations, as prescribed in CMC 17.32.160. A qualified professional, PAST Consultants, found the project to be consistent with the Secretary of the Interior’s Standards. October 3, 2023, the City Council adopted a resolution issuing a Determination of Consistency with the Secretary of the Interior’s Standards (Resolution 2023-099) following a Council Right of Review (CMC 2.04.160) of the Historic Resources Board issuance of a Determination of Consistency (Resolution 2023-09-HRB).

In accordance with the city’s Historic Preservation Ordinance (CMC 17.32), a “Determination of consistency” shall mean a finding adopted by the City that the proposed new construction, addition, alteration, and/or relocation complies with all of the provisions of this chapter (CMC 17.32, Historic Preservation) and the Secretary’s Standards.

CMC 17.32 further defines the Secretary’s standards as: ““Secretary of the Interior’s Standards for Rehabilitation” (also “Secretary’s Standards”) shall mean the Secretary of the Interior’s Standards for Rehabilitation (1990, 36 CFR Section 67.7) and the publication of the National Park Service, Preservation Assistance Division, Guidelines for Rehabilitating Historic Buildings (1992, NPS) and the Secretary of the Interior’s Standard for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (1995, NPS), and any subsequent publication of the Secretary’s Standards by the NPS.”

As stated in Section 15064.5(b)(3) of the CEQA Guidelines: “Generally, a project that follows the Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer, shall be considered as mitigated to a level of less than a significant impact on the historical resource.”

As stated in CMC 17.32.160.D, If the Board issues a determination of consistency, the Director shall determine whether the project is eligible for a categorical exemption consistent with the CEQA Guidelines. Further environmental review may still be required to address other aspects of the project. The Department shall cause to be prepared the appropriate environmental documentation for the project and shall cause the processing

of the permit application to continue pursuant to standard City practices. As such, the project does not cause a substantial adverse change in the significance of a historical resource.

Lot 10 is not part of the Complex site and a Determination of Ineligibility was issued on June 27, 2019, and re-issued on June 27, 2024.

Conclusion

Based on the evidence provided above, the proposed project would not result in any significant environmental impacts. The proposed project qualifies for a Categorical Exemption under CEQA as it meets the conditions described in Article 19, Section 15332, Class 32, In-fill Development Projects, and none of the exceptions listed in CEQA Guidelines Section 15300.2 are applicable.