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July 22, 2019

Lezanne Jeffs
Principal Planner
Santa Cruz County Planning Department
701 Ocean Street
Santa Cruz, CA 95060

Re: MidPen Housing Project – 1500 Capitola Road

Dear Ms. Jeffs:

I am writing on behalf of MidPen Housing Corporation (“MidPen”) in connection with the development of a mixed-use project proposing 57 new, mixed income homes, clinics and office space for the Santa Cruz Community Health Centers and Dientes Community Dental, and a small amount of commercial retail space (the “Project”) at 1412, 1438, 1500, and 1514 Capitola Road in Santa Cruz County (the “County”) (the “Property”). We have reviewed the applicability of various mechanisms under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq., “CEQA”) including the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, et seq., the “CEQA Guidelines”).

In short, we believe that the Project is statutorily exempt from environmental review as a mixed use housing project in an unincorporated area of the County pursuant to Public Resources Code Section 21159.25. As a courtesy for your further consideration, the following provides more detail. Statutory criteria are included in *italics*, followed by Project-specific analysis.

Statutory Exemption for Multi-family Residential and Mixed-Use Housing Projects

Public Resources Code Section 21159.25 provides that the requirements of CEQA do not apply to residential or mixed-use projects that meet certain qualifying conditions specified therein.¹

Qualifying Criteria: In order to qualify for the statutory exemption, the following conditions must be met:

¹ Pub. Res. Code § 21159.25(b).

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*(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;*²

The current General Plan (Neighborhood Commercial (C-N)) and Zoning (Neighborhood Commercial (C-1)) designations allow residential uses up to 67% of the floor area of the entire development if the project is 100% affordable, developed according to development standards of urban high residential. (General Plan, Section 2.12.3, Zoning Section 13.10.332) The Project includes approximately 61,275 sf of residential space of the total 91,493 (or 66.9%) of the total floor area. (See plans dated 2/27/2019)

With respect to residential density, the Urban High Residential development standards allow a maximum density of 17.4 units per acre. (General Plan, Section 2.10) As the Property is 3.6 acres (see Vesting Tentative Map dated 5/22/19), 17.4 units per acre allows a total of 63 units. The proposed Project includes 57 units and is therefore consistent with the current General Plan and Zoning designation's density standards. Medical use is also a permitted commercial use with Planning Commission approval. (Zoning, Section 13.10.332) The Project is, therefore, consistent with the applicable General Plan and Zoning.

It is noted that a rezoning to a Regional Housing Need (R-Combining) zoning district will be processed over a 2.36-acre portion of the Project site, as requested by the County. In that implementation of the development will result in the site being divided into two land areas, one with the medical/dental uses and the other with the residential use, the R-Combining District will be added to the existing commercial/mixed use zoning most accurately reflecting the use on the resulting residential parcel. This will also allow the County to have options for ensuring ongoing compliance with Housing Element Policy 1.2 for properties designated for development at a minimum density of 20 dwelling units per acre. The R-Combining zoning allows 20 DU/acre. (Zoning, Section 13.10.476) The use and density are permitted by right, meaning that the use and density for the site are not discretionary³. (*Id.*) For the 2.36-acre Property, 47 units are permitted. The Project qualifies for a further density bonus and the Applicant requests a 20% density bonus. (Zoning, Chapter 17.12) That bonus results in 57 units at 24 units per acre. Accordingly, with the density bonus, the Project's 57 units are consistent with both the R-Combining district for the residential portion of the development and the number of units allowed within the development as a whole, based on the existing zoning of the site. Moreover, the Project's 57 mixed-income affordable units, as well as supporting commercial uses, will help achieve the County Regional Housing Needs Assessment goals.

(2) The density of the residential portion of the project is not less than the greater of (a) the average density of the residential properties that adjoin, or are separated only by an improved

² Pub. Res. Code § 21159.25(b)(1).

³ It is further noted that ministerial actions are not subject to CEQA. (Pub. Res. Code §21080(b)(1); 14 Cal Code Regs. §15060(c)(1)) Accordingly, it can be argued that the residential use and density are ministerial and not subject to CEQA, although the design permit is discretionary and the initial zoning with the R-Combining District is subject to CEQA. Nevertheless, this letter demonstrates applicability under the AB 1804 CEQA exemption.

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*public right-of-way from, the perimeter of the project site, if any, (b) the average density of the residential properties within 1,500 feet of the project site, or (c) six dwelling units per acre;*⁴

The density of the residential portion of the Project is 24 units per acre (57 units / 2.36 acres). It therefore is not less than the average density of adjacent residential properties and meets the requirement to exceed 6 units per acre.

Public Resources Code Section 21159.25(a)(2) further defines “substantially surrounded” to mean that at least 75 percent of the perimeter of the project site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. The Property is surrounded by urban uses on all sides, as shown in the figure below.



*(3) The residential portion of the project is a multifamily housing development that contains six or more units;*⁵

As noted above, the Project is a mixed-use project with 57 new mixed-income homes. Public Resources Code Section 21159.25(a)(1) further specifies that a mixed-use project shall mean “a project consisting of multifamily residential uses only or a mix of multifamily residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.”⁶ The Project includes approximately 61,275 sf of residential space of the total 91,493 of the total floor area. (See 2/27/2019 plans) This equates to 66.9% of the project floor area and meets the qualifying requirement for two-thirds residential space. As such, the Project qualifies as a mixed-use development.

⁴ Pub. Res. Code § 21159.25(b)(2)(A).

⁵ Pub. Res. Code § 21159.25(b)(2)(B).

⁶ Pub. Res. Code § 21159.25(a)(1).

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*(4) The proposed development occurs within an unincorporated area of a county on a project site of no more than five acres substantially surrounded by qualified urban uses;*⁷

The Property is 3.7 acres and is located within unincorporated Santa Cruz County. As discussed in response to (2) above, the Property is surrounded on all sides by urban uses.

*(5) The project site has no value as habitat for endangered, rare, or threatened species;*⁸

The Property is in an urbanized area and is surrounded on all sides by urban uses with no value as habitat for endangered, rare, or threatened species.

Further, we understand that the Property was evaluated by environmental planning staff to identify if any potential habitat for special status species may occur there. This evaluation involved review of existing resource information including a query of the California Natural Diversity Data Base (CNDDDB), and a reconnaissance level site visit to assess the potential for sensitive habitat on the project site. It was determined based on the results of this evaluation that habitat for State or Federal listed species, or other sensitive habitat, does not occur on the project site. (See email from Juliette Robinson, dated 1/29/2019)

The Santa Cruz County GIS tool further shows that the Property has no value for the following attributes: Timber Resources, Grasslands, Riparian Woodlands, Biotic Resources, Special Forest, Sandhill Habitat, Sandhill IPHCP, Fishery Resource, Streams, Lakes, Reservoir Protection, Water Supply Watersheds, Least Disturbed Watersheds, Ground Water Recharge.

*(6) Approval of the project would not result in any significant effects relating to transportation, noise, air quality, greenhouse gas emissions, or water quality;*⁹

The Project would not result in any significant effects. Specifically, the following summarizes the technical reports completed to date finding no significant impacts.

A Traffic Impact Analysis was conducted by Jeff Waller Consulting (dated May 15, 2019). For the purpose of the exemption determination, it is noted that the Project would have a less than significant Vehicle Miles Traveled (VMT) impact. Based on the recently adopted CEQA amendments adopted pursuant to SB 743, VMT is considered the “most appropriate measure of transportation impacts” (see CEQA Guidelines Section 15064.3(a)). The Project would have lower VMT per capita than the Santa Cruz regional average. Moreover, OPR’s *Technical Advisory on Evaluating Transportation Impacts in CEQA* (December 2018) provides that a project consisting of a high percentage of affordable housing may be the basis for a lead agency finding a less-than-significant impact on VMT. Accordingly, the fact that the Project includes 100% affordable housing with supportive commercial uses in an infill location supports the less than significant VMT finding.

⁷ Pub. Res. Code § 21159.25(b)(3).

⁸ Pub. Res. Code § 21159.25(b)(4).

⁹ Pub. Res. Code § 21159.25(b)(5).

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The Preliminary Hydrology and Storm Water Management Report, prepared by BKF Engineers (dated May 10, 2019), found that the Project has been designed to comply with all applicable stormwater quality and hydrologic requirements of the County Design Criteria. Due to required compliance of the Project with the County Code and Design Criteria, there will be no significant effects related to water quality.

The discussion below also notes the technical reports demonstrating that the Project will not have any impacts on historic resources or trees.

*(7) The project site can be adequately served by all required utilities and public services;*¹⁰

As the Property is located in an urbanized area and can adequately be served by required utilities and public services. The Santa Cruz County GIS tool shows that the Property is within the Urban Services line.

*(8) The project is located on a site that is a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.*¹¹

The Property is comprised of four legal parcels. A Vesting Tentative Map will be processed to reconfigure the parcels. The United States Census Bureau defines "Urban Clusters" as areas of at least 2,500 and less than 50,000 people.¹² An Urbanized Area is an area of 50,000 people or more.¹³ Santa Cruz County has a population of roughly 300,000.¹⁴

Disqualifying Criteria: The statute clarifies that the exemption does not apply to a residential or mixed-use housing project if any of the following conditions exist:

(1) The cumulative impact of successive projects of the same type in the same place, over time is significant.

We are not aware of any cumulatively significant successive projects of the same type in the same place. This has been confirmed by County staff.

(2) There is a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances.

We are not aware of any unusual circumstances.

¹⁰ Pub. Res. Code § 21159.25(b)(6).

¹¹ Pub. Res. Code § 21159.25(b)(7).

¹² United States Census Bureau, Urban and Rural page, available here: <https://www.census.gov/geo/reference/urban-rural.html> (accessed 4/3/19).

¹³ See above.

¹⁴ United States Census Bureau, Santa Cruz Census 2010 Population, available here: https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml?src=bkmk (accessed 4/3/2019).

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(3) The project 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.

The Project will not result in damage to scenic resources.

The trees on the Property have been assessed by Nigel Belton (see report from July 22, 2018 and email dated February 15, 2019). The arborist surveyed 152 trees on site. 50 of 152 were recommended for removal by the arborist due to poor overall condition or undesirable species characteristics. The Project maintains 37 of those trees in our current design. MidPen is otherwise adhering to the County's 1:1 replacement rate and planting one new tree for every tree removed.

A Historic Resource Evaluation, prepared by Architecture Planning Conservation (dated February 2019), found the property at 1438 Capitola Road to be ineligible for listing in the National Register, in the California Register, or as a County of Santa Cruz Historic Resource.

(4) The project is located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

The Project is not located on a list compiled pursuant to Section 65962.5.¹⁵

(5) The project may cause a substantial adverse change in the significance of a historical resource.

As noted above, a Historic Resource Evaluation, prepared by Architecture Planning Conservation (dated February 2019), found the property at 1438 Capitola Road to be ineligible for listing in the National Register, in the California Register, or as a County of Santa Cruz Historic Resource.

Sincerely yours,

HOLLAND & KNIGHT LLP



Chelsea Maclean

¹⁵ DTSC, ENVIROSTOR search, available here:
<https://www.envirostor.dtsc.ca.gov/public/map/?myaddress=Sacramento&tour=True> (accessed 4/4/2019).