

NOTICE OF EXEMPTION

To: Assessor/Recorder/County Clerk
Attn: Fish and Wildlife Notices
1600 Pacific Highway, Suite 260
San Diego CA 92101
MS: A-33

From: **CITY OF CARLSBAD**
Planning Division
1635 Faraday Avenue
Carlsbad, CA 92008
(442) 339-2600

Subject: Filing of this Notice of Exemption is in compliance with Section 21152b of the Public Resources Code (California Environmental Quality Act).

Project Number and Title: PUD 2024-0002/SDP 2024-0013/CDP 2024-0016/MS 2024-0003 (DEV2024-0052) – CHERRY BEACH HOMES

Project Location - Specific: 180 Cherry Avenue

Project Location - City: Carlsbad

Project Location - County: San Diego

Description of Project: Demolish two existing residential structures and an accessory structure and construct a three-unit condominium project consisting of three detached, one-family dwellings that range in size from 2,978 square feet to 3,026 square feet, and all having attached two-car garages.

Name of Public Agency Approving Project: City of Carlsbad

Name of Person or Agency Carrying Out Project: STEPHEN DALTON ARCHITECTS

Name of Applicant: PATRICK KORNMAN, STEPHEN DALTON ARCHITECTS

Applicant's Address: 444 SOUTH CEDROS AVE. #185, SOLANA BEACH, CA 92075

Applicant's Telephone Number: (858) 792-5906

Name of Applicant/Identity of person undertaking the project (if different from the applicant above):

Exempt Status: (Check One)

- Ministerial (Section 21080(b)(1); 15268);
- Declared Emergency (Section 21080(b)(3); 15269(a));
- Emergency Project (Section 21080(b)(4); 15269 (b)(c));
- Categorical Exemption - State type and section number: New Construction or Conversion of Small Structures – Section 15303
- Statutory Exemptions - State code number: _____
- Common Sense Exemption (Section 15061(b)(3))

Reasons why project is exempt: Construction of three single-family residences in an urbanized area.

Lead Agency Contact Person: Kyle Van Leeuwen

Telephone: 442-339-2611

Exceptions to Exemptions

CEQA Section 15300.2 – Exceptions

Planning staff evaluated all the potential exceptions to the use of Categorical Exemptions for the proposed project (in accordance with CEQA Guidelines Section 15300.2) and determined that none of these exceptions apply as explained below:

- a. **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 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. This project is eligible for the Class 3 exemption.

Response – The project location is not considered to be a particularly sensitive environment due to the following reasons:

The site is not located within an Existing or Proposed Hardline Conservation Area or Standards Area of the Habitat Management Plan and the project site is currently developed. Therefore, the project will not have an impact on an environmental resource of hazardous or critical concern.

- b. **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.”

Response – There is no evidence to conclude that significant impacts will occur based on past project approvals or that the proposed Project's impacts are cumulatively considerable when evaluating any cumulative impacts associated with construction air quality, noise, transportation, or water quality in the area surrounding the proposed Project. The Project, and all future projects, will be required to comply with all applicable local, regional, and state laws, regulations, and guidelines, and as described above, any potential impact cause by the Project's construction and operation would continue to be less than significant and would not contribute significantly to regional cumulative impact in the broader project region. Therefore, this exception does not apply.

- c. **Significant Effect** - “A categorical exemption shall not be used for any activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. Examples include projects, which may affect scenic or historical resources.”

Response – There are no unusual circumstances that would have a significant impact on the environment due to the project. The Project does not involve any unusual circumstances. In regard to biological resources, the project is not located within an existing or proposed Hardline Conservation Areas or Standards Areas of the Habitat Management Plan.

- d. **Scenic Highway** - “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.”

Response – Cherry Avenue is not considered a historical and scenic corridor throughout Carlsbad, is not a highway officially designated as a State Scenic Highway, nor is it easily visible from a Carlsbad historical or scenic corridor or State Scenic Highway. The project site is also surrounded on all sides by existing residential structures. Therefore, implementation of the Project will result in similar visual conditions compared with a no project scenario.

- e. **Hazardous Waste Site** - "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."

Response – A review of available records did not identify any sites which are included on any list compiled pursuant to Section 65962.4 of the Government Code.

- 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."

Response – A Cultural Resources Report, dated January 9, 2024, was prepared by Kristi S. Hawthorne to determine if the Project would impact any historical resources pursuant to CEQA. The report concluded that none of the buildings on the Project site are listed or eligible to be listed in any national, state, or local landmark or historic district programs. As such, development of the Project would not cause a substantial adverse change in the significance of a historical resource, and this exception does not apply.

Carlsbad Municipal Code Section 19.04.070(B) - Exceptions

Exceptions. Even though a project may otherwise be eligible for an exemption, no exemption shall apply in the following circumstances:

1. Grading and clearing activities affecting sensitive plant or animal habitats, which disturb, fragment or remove such areas as defined by either the California Endangered Species Act (Fish and Game Code Sections 2050 et seq.), or the Federal Endangered Species Act (16 U.S.C. Section 15131 et seq.); sensitive, rare, candidate species of special concern; endangered or threatened biological species or their habitat (specifically including sage scrub habitat for the California Gnatcatcher); or archaeological or cultural resources from either historic or prehistoric periods;

Or

2. Parcel maps, plot plans and all discretionary development projects otherwise exempt but which affect sensitive, threatened, or endangered biological species or their habitat (as defined above), archaeological or cultural resources from either historic or prehistoric periods, wetlands, stream courses designated on U.S. Geological Survey maps, hazardous materials, unstable soils, or other factors requiring special review, on all or a portion of the site. (Ord. NS-593, 2001)

Response – The Project site is located in a developed part of the city and is surrounded by residential uses. The Project site contains three existing buildings exist on site and the site contains only non-natives and ornamental vegetation with no value as habitat for endangered, rare, or threatened species. Furthermore, the site is not within mapped areas of potential critical habitat as depicted in the City's General Plan¹.

A Cultural Resources Report, prepared by Kristi S. Hawthorne, concluded that none of the buildings on the Project site are listed or eligible to be listed in any national, state, or local landmark or historic district programs. Furthermore, the likelihood that intact archaeological or cultural resources exist on the Project site is low due to previous site disturbance. Nonetheless, the Project will be required to comply with standard City regulatory procedures outlined in the Carlsbad Tribal, Cultural, and Paleontological Resources Guidelines (City of Carlsbad 2017) including conditions requiring archaeological monitoring of ground-disturbing activities during Project construction. Therefore, earth-moving activities associated with the Project would not affect archaeological or cultural resources from either historic or prehistoric periods.

¹ City of Carlsbad. 2015 City of Carlsbad General Plan – Open Space, Conservation, and Recreation Element. Adopted September 2015. <https://www.carlsbadca.gov/home/showpublisheddocument/3424/637434861099030000>

Hazardous materials, unstable soils or other factors requiring special review do not apply or are not found within this project location.

Lead Agency Contact Person: Kyle Van Leeuwen

Telephone: 442-339-2611



12/11/2024

ERIC LARDY, City Planner

Date

Date received for filing at OPR: