

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: CT 2024-0007/SDP 2024-0021/CDP 2024-0035 (DEV2024-0004)– Rincon CVD

Project Location - Specific: 840 Carlsbad Village Drive

Project Location - City: Carlsbad

Project Location - County: San Diego

Description of Project: Demolition of a 5,515-square-foot, one-story former bank building, associated drive-through, and parking lot followed by the construction of a five-story mixed-use building consisting of approximately 3,800 square feet of commercial space and an 18,687-square-foot parking garage on the first floor; 12 residential units on the second and fifth floors; and 13 residential units on the third and fourth floors. The 50 residential units will range in size from 876 square feet to 2,286 square feet. 19 units will contain one bedroom, 19 units will contain two bedrooms, and 12 units will contain three bedrooms. A total of 50 parking spaces will be provided with 46 parking spaces for residential units and 4 accessible spaces in the first-floor parking garage. A 50% density bonus is requested with the dedication of 15% of the base density units to be designated for very-low-income households (4 units), and an additional 50% bonus is requested with the dedication of 15% of the base density units for moderate-income households (4 units). One incentive/concession and six waivers are requested to facilitate the development including additional building height. The incentive/concession is a request to waive all commercial electric vehicle parking requirements for the project. The waivers requested are from (1) maximum building and number of stories; (2) 10-foot fourth-floor setback; (3) maximum enclosed fourth floor space; (4) maximum wall plane length without 5-foot variation; (5) minimum depth of ground-floor street frontage uses; (6) minimum parking stall size in parking garage.

Name of Public Agency Approving Project: City of Carlsbad

Name of Person or Agency Carrying Out Project: Jonathan Frankel, Rincon Homes

Name of Applicant: Jonathan Frankel, Rincon Homes

Applicant's Address: 5315 Avenida Encinas, Suite 200, Carlsbad, CA, 92008

Applicant's Telephone Number: (925) 708-3638

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

Exempt Status: Categorical Exemption: Class 32, Section 15332 (In-Fill Development Projects)

Reasons why project is exempt: The project is consistent with the general plan as well as the zoning ordinance in terms of land use, density, and development standards. The land use regulations are set by the Village and Barrio Master Plan district, allowing density up to 35 units per acre and mixed-use.

The project is within the city limits, is less than five acres in size, and is surrounded on all four sides by urban uses including a church, a dental office, office buildings, single-family residences, and commercial buildings. Because the site contains only non-native and ornamental vegetation, the site has no value as habitat for endangered, rare, or threatened species. Approval of the project would not result in any significant effects relating to traffic (as verified by the Vehicle Miles Traveled Analysis prepared by LOS Engineering, Inc, dated September 10, 2025, Exhibit 1¹), noise (as verified by the Noise Study by Birdseye Planning Group dated May, 2025, Exhibit 2²), air quality (as verified by the Air Quality/Greenhouse Gas Study by Birdseye Planning Group dated May 2025, Exhibit 3³), or water quality. Finally, the site can be adequately served by all required utilities and public services. In accordance with the Carlsbad Municipal Code, the Project would pay the required Public Facility Fee and water and sewer connection fees to help offset the Project's cumulative impact and help fund the public infrastructure and services necessary to accommodate growth.

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."

Response – The location exception is not applicable to Class 32 Exemptions for In-Fill Development Projects.

- 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. Accordingly, the Project's incremental

¹ Vehicle Miles Traveled Analysis prepared by LOS Engineering, Inc. dated September 10, 2025

² Noise Study by Birdseye Planning Group dated May 2025,

³ Air Quality/Greenhouse Gas Study by Birdseye Planning Group dated May 2025

impacts, when considered together with the impacts of the related projects, would not result in a cumulatively considerable contribution to a significant cumulative impact. 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 caused 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."

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 – Carlsbad Village Drive is not considered a historical corridor throughout Carlsbad, is not a highway officially designated as a State Scenic Highway, nor is it visible from a Carlsbad historical or scenic corridor or State Scenic Highway. The project site is also surrounded on all sides by existing 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 – The Project site is not identified on the Department of Toxic Substance Control geoportal map as a Cleanup, Hazardous Waste, or Inspection site. Furthermore, there is no indication that the site has had any previous uses associated with hazardous materials, such as dry-cleaning or gas station.

- 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 – The existing commercial structure on the property, an approximately 5,515-square-foot, one-story former bank building and drive-through, was constructed in 1979. As the structure is less than 50 years old, the structure is not listed or eligible to be listed in any national, state, or local landmark or historic district programs, nor is it eligible for listing in the Local Register. 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. The property is not known to have any other special circumstances that would make the property a historic resource.

Carlsbad Municipal Code Section 19.04.070(C) - 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; Ord. CS-485, 2/4/2025)

Response – The Project site is located in a developed part of the city and is surrounded by commercial and residential uses. The Project site contains an existing building, drive-through, parking lot and landscaping, and 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 Plan.⁴

The existing commercial structure on the property, an approximately 5,515-square-foot, one-story former bank building, was constructed in 1979. As the structure is less than 50 years old, the structure is not 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. Furthermore, based on the amount of grading proposed (1,920 cubic yards of cut, 45 cubic yards of fill, and 3,500 cubic yards of remedial grading) with the project, 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 conditioned to require archaeological monitoring of ground-disturbing activities during Project construction in compliance with standard City regulatory procedures outlined in the Carlsbad Tribal, Cultural, and Paleontological Resources Guidelines (City of Carlsbad 2017). Therefore, earth-moving activities associated with the Project would not affect archaeological or cultural resources from either historic or prehistoric periods.

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: Edward Valenzuela **Telephone:** 442-339-2624


SCOTT NIGHTINGALE, City Planner

7/29/26
Date

⁴ 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>