

# CITY of CARPINTERIA, CALIFORNIA



August 8, 2025

Carpinteria Group LLC  
c/o Ben Eilenberg, Manager  
1519 E Chapman Ave, #101  
Fullerton, CA 92831

Via email to: [carpinteriagroup@gmail.com](mailto:carpinteriagroup@gmail.com)

RE: Application Incompleteness Items – Response to August 4, 2025 Notice  
5115 Ogan Road Residential Project (“Project”); Project #25-2358-DP/CDP/TPM/ARB  
5115 Ogan Road; APN 003-161-022

Dear Mr. Eilenberg:

The City is in receipt of your August 4, 2025 email regarding certain outstanding incomplete items. As discussed in more detail below, we disagree that these requests violate applicable State Housing Laws, including, but not limited to, the Housing Accountability Act, Housing Crisis Act, and Permit Streamlining Act. Accordingly, pursuant to your invocation of Government Code Section 65589.5(h)(6)(D), staff will post your notice on the City website, circulate to interested parties, consider all comments received regarding the City’s course of conduct received for at least 60 days, and complete the other procedures as required by this provision.

In the meantime, and in the interest of assisting with the processing of your application during this interim period, we provide the below additional information regarding the items raised in your email. We reserve the right to supplement or amend the below information during the process set forth in Government Code section 65589.5(h)(6)(D).

**Local Coastal Plan Amendment:** Pursuant to the City of Carpinteria Local Coastal Plan/General Plan and Municipal Code Title 14, Zoning, Multifamily Residential use is not allowed in the in the PF Public Facility Land Use Designation or the UT Public Utility Zone District applicable to the Project site without approval of a Local Coastal Plan Amendment to comply with the relevant Coastal Land Use Plan policies and Local Coastal Plan zoning provisions.<sup>1</sup> In the correspondence from the California Coastal Commission attached to the City’s Incomplete Letter, the Coastal Commission provides that a Local Coastal Plan Amendment is required to ensure conformance of the proposed

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<sup>1</sup> The Coastal Act provides clearly that a coastal development permit may only be issued within the Coastal Zone if the proposed development is in conformity with the certified LCP. Pub. Res. Code, § 30604(b).

Project with the certified Local Coastal Plan (“LCP”) including, but not limited to, conformance with land use and zoning designations and height restrictions.<sup>2</sup>

In your August 4<sup>th</sup> email, you rely on Government Code Section 65589.5(f)(6)(D)(iii) to assert that the application is deemed consistent with applicable plans, programs and standards and therefore a Local Coastal Plan Amendment is not required. **However, State Law is clear that the Housing Accountability Act may not be relied upon to violate the California Coastal Act.** The Housing Accountability Act states clearly that “[n]othing in this section shall be construed to relieve the local agency from complying with . . . the California Coastal Act of 1976 (Division 20 (commencing with Section 3000) of the Public Resources Code.”<sup>3</sup> In fact, in a recent decision issued by the Superior Court of California, the court found that a builder’s remedy project located in the coastal zone that proposed residential uses inconsistent with the LCP was properly found to be incomplete given the applicant failed to include an application for an Local Coastal Program Amendment.<sup>4</sup> Accordingly, because the proposed Project is inconsistent with the City’s certified LCP, the application must include a request for a Local Coastal Plan Amendment.

**Utility Plan:** In your August 4<sup>th</sup> email, you assert that the City’s requests for information related to the Project’s utilities fall outside of the scope of the submittal checklist’s requirement for a “Utility Plan”. However, the requested information is required for reviewing the project’s utility requirements as well as determining the scope of the complete project description (which is required in Section A of the Submittal checklist). In other words, the placement of utility installations or required utility upgrades are components of a complete project description and thus the requested information is necessary for the City’s review of the Project. Additionally, Submittal Checklist Items D16, 17 and 19 require submission of information to assess the proposal’s potential to result in a substantial change in the demand for public services. As stated in the City’s Incomplete Letter and the CMC, this includes, but is not limited to, a complete utility plan identifying utility meters, utility equipment, solar locations, locations of charging stations and equipment box locations, and information related to the Project’s potential impact on municipal services including the feasibility of the establishment of utilities, services, and facilities including water, sewage disposal, fire protection, police protection, schools, transportation and a statement of energy and water conservation measures and/or devices incorporated into the construction and occupancy phases of development.<sup>5</sup>

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<sup>2</sup> See also *Charles A. Pratt Construction Co., Inc. v. California Coastal Com.* (2008) 162 Cal.App.4th 1068, 1075, as modified on denial of reh’g (June 9, 2008) (“[T]he LCP and the development permits issued by local agencies pursuant to the Coastal Act are not solely a matter of local law, but embody state policy.”)

<sup>3</sup> Gov. Code, § 65589.5(e); see *Kalnel Gardens, LLC v. City of Los Angeles* (2016) 3 Cal.App.5th 927, 944, fn. 9 (“Because the HAA similarly provides that it shall not be construed to relieve local agencies from complying with the Coastal Act (§ 65589.5, subd. (e)), if we were to reach that issue, we would likely conclude that it too was subordinate to the Coastal Act.”)

<sup>4</sup> *New Commune DTLA LLC vs. City of Redondo Beach et al*, Los Angeles Sup. Ct. No. 23STCP00426, at 22 (“The [Applicant] cannot ignore the City’s certified LCP under the auspices of HAA’s builders remedy.”).

<sup>5</sup> CMC, § 14.68.030.

The Carpinteria Municipal Code (CMC) Section 14.68.030, requires a comprehensive review of a development to assess potential impacts of the proposed development on existing services and surrounding uses and to ensure that new development is appropriately and safely sited and designed. In addition to requiring the above information to aid in the City's review, it is also required for the City to evaluate the Project's potential environmental impacts pursuant to the California Environmental Quality Act.<sup>6</sup>

**Easements:** In your August 4<sup>th</sup> email, you assert that the City's requests for easement locations and information is not included in the submittal checklist. This is incorrect. As you note, the application specifically requests a complete description of any restrictions affecting the property, including easements (Section B(5)). The Submittal Checklist also specifically requires that all questions in the application be "fully and honestly answered". Further, CMC Sections 14.68.030(1)(o) and 16.12.140 (F) require a development plan and tentative map, respectively, to include the location of proposed easements or dedications, as well as the width, nature and status of all existing and proposed easements, reservations, and rights-of-way, whether or not of record, to which the property within the subdivision is or will be subject. Where of record, each shall be clearly identified by reference to the accompanying preliminary report of title. Finally, as with the utility plan, the requested letters to utilities regarding potential future easements is required to determine the scope of a complete project description.

**Coastal Development Permit:** In your August 4<sup>th</sup> email, you ask whether the local Coastal Development Permit will be processed solely through the City rather than through the California Coastal Commission. While the Project is not located within the Coastal Appeals Jurisdiction, a Local Coastal Program Amendment is required for this Project (see above discussion) and therefore Coastal Commission approval will be required for the Project.<sup>7</sup>

**Tentative Parcel Map:** In your August 4<sup>th</sup> email, you state that you will "allow the parcel map process to continue" but "reserv[e] the right to perform the TPM through this application." However, the Project application requires a Tentative Parcel Map ("TPM") given that the Project is currently not proposed on a legal lot, and the pending application is not yet approved and is not part of this Project. This application therefore cannot be determined to be complete until either (1) the currently pending TPM application is approved by the City, or (2) the Project application is revised to include a TPM application. This second option may be satisfied either by (a) including a TPM application in the Project application and submitting all associated items and fees;<sup>8</sup> or (b) providing written consent from the property owner and the current applicant for the pending TPM application to join these applications.

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<sup>6</sup> Gov. Code, § 65589.5(e) ("Neither shall anything in this section be construed to relieve the local agency from . . . complying with the California Environmental Quality Act.").

<sup>7</sup> Pub. Res. Code, § 30512(c).

<sup>8</sup> CMC, § 16.12.150.

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Thank you for your attention to this matter. If you have any questions regarding this letter, please call me at (805) 755-4414 or email me at [bretm@carpinteriaca.us](mailto:bretm@carpinteriaca.us).

Sincerely,

A handwritten signature in blue ink, reading "Bret K. McNulty". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bret McNulty, Principal Planner  
Community Development Department

Cc: Case File, #25-2358-DP/TTM/CDP/ARB