

Carpinteria Group LLC

November 25, 2025

City of Carpinteria
5775 Carpinteria Avenue
Carpinteria, CA 93013-2603

Re: 5115 Ogan Road – APN 003-161-022 – Project # 25-2358-DP/CDP/TPM/ARB

Mr. McNulty,

This letter sets forth our responses to various matters set forth in your incomplete letter dated October 29, 2025. It also includes comments regarding the City's response to the Government Code Section 65589.5(h)(6)(D) invocation. This was prepared with the help of our attorney who is cc'ed on the correspondence.

Initial Items

There are two initial items that need to be addressed before we get to the specifically numbered comments. The first is the Coastal Development Permit and the second is the City's statement that it can add more items to the response to this application than were in the latest incomplete letter.

Coastal Development Permit

You have correctly stated our position regarding the Coastal Development Permit process but have apparently failed to understand the basis for the position. We do plan to apply for a Coastal Development Permit with the City of Carpinteria as part of this process unless there is another change in the underlying laws that impacts that decision. However, because there is a Local Coastal Plan in place, there are strict limitations on when and why the California Coastal Commission can appeal the Coastal Development Permit that prevent them from doing so in this case.

In jurisdictions with a Local Coastal Plan, the only grounds for appeal by the California Coastal Commission are:

- (1) The project interferes with public access to the coast; and
- (2) The project does not conform to the Local Coastal Plan.

I think we can all agree that there is no issue regarding public access to the coast for this project. Therefore, the question becomes whether the project conforms to the Local Coastal Plan.

As set forth in our prior correspondence, this is addressed by Government Code Section 65589.5(f)(6)(D)(iii). This code section provides: "Any project that complies with this paragraph

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shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, redevelopment plan and implementing instruments, or other similar provision for all purposes, and shall not be considered or treated as a nonconforming lot, use, or structure for any purpose.”

In your response to our Government Code Section 65589.5(h)(6)(D) invocation, you state that the City’s contention is that the Local Coastal Plan is not subject to Government Code section 65589.5(f)(6)(D)(iii) for two reasons. Each is addressed below:

A. Government Code Section 65589.5(e)

The first argument set forth by the City is that Government Code Section 65589.5(e) provides: “[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).”

The problem with this argument is that the area skipped over by the City in its ellipses is hugely important. The full section provides:

“Nothing in this section shall be construed to relieve the local agency from complying **with the congestion management program** required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).”

Congestion Management Programs were created by Proposition 111 in 1990. This proposition was also colloquially known as the “Gas Tax.” They are specifically only to address traffic congestion. Therefore, if the full section is read (rather than eliminating the very important qualifier within the statutory language), it is apparent that there are significant limits of the California Coastal Act impact on Builder’s Remedy projects, and a Coastal Development Permit application is not part of the statutory authority of the Coastal Commission under Government Code Section 65589.5(e).

B. New Commune DTLA LLC v. City of Redondo Beach

You also cite to the Superior Court level decision in *New Commune DTLA LLC v. City of Redondo Beach*. It may interest you to learn that the Court’s judgment was appealed which led to a published opinion **reversing the judgment**. The opinion is available at <https://courts.ca.gov/opinion/published/2025-10-10/b336042>. The published opinion was issued prior to your response to our Government Code Section 65589.5(h)(6)(D) invocation, so this simply appears to be another bad faith argument.

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C. Conclusion – Coastal Development Permit

The two legal arguments you have set forth are simply incorrect and, in fact, show further bad faith by the City. With the selective editing of Government Code Section 65589.5(e) removing important qualifying language and the citation to a Superior Court decision that has been overturned on appeal in a published decision, the response to the Government Code Section 65589.5(h)(6)(D) is not only incorrect, but further evidence of bad faith. We expect the City to recognize this and come into compliance rather than continue its bad faith arguments.

Additional Items On Review

Your incomplete letter also states: “During review of resubmittal items, staff may identify additional new or previously unknown issues that trigger additional requests for clarifications, corrections, or supplemental information.” This runs directly against the processes set forth in the California Permit Streamlining Act.

Government Code Section 65943(a) provides: “Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency’s submittal requirement checklist. **In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete.** If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency’s determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.”

The City’s contention that it can add new requirements is a violation of the Permit Streamlining Act.

Specifically Enumerate Items From The Incomplete Letter

As a preliminary matter, your letter appears to invoke a large number of requirements that do City of Carpinteria Project Application (the “planning submittal checklist”). As a courtesy, I have attached a copy of the planning submittal checklist for your review. If you contend that the project is missing any information, please specifically **highlight** where the exact requirement

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you are requesting appears in the planning submittal checklist on the planning submittal checklist.

A. Item A.1.a. – Local Coastal Plan Amendment

As set forth above, the requirement for a Local Coastal Plan Amendment violates Government Code Section 65589.5(f)(6)(D)(iii). Government Code Section 65589.5(f)(6)(D)(iii) provides: “Any project that complies with this paragraph shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, redevelopment plan and implementing instruments, or other similar provision for all purposes, and shall not be considered or treated as a nonconforming lot, use, or structure for any purpose.”

As shown above, your reliance on a selectively edited Government Code Section 65589.5(e) and the reversed Superior Court opinion in *New Commune DTLA v. City of Redondo Beach* are unavailing. Please confirm you will come into compliance with Government Code Section 65589.5(f)(6)(D)(iii).

B. Item A.2. – Tentative Parcel Map

As a preliminary matter, there is no requirement for the tentative parcel map as a requirement for completeness in the City’s submittal requirement checklist. The requirements for completeness are addressed by Government Code section 65943(a).

Government Code Section 65943(a) provides: “Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. **If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency’s submittal requirement checklist.** In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency’s determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.”

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In this case, the City's submittal requirement checklist does not include the requirement of a tentative parcel map. Therefore, under the California Permit Streamlining Act it cannot be a requirement for completeness.

While that issue is definitive, I will also point out that this appears to be another bad faith attempt by the City. The City has significantly slowed the parcel split application from Frontier (the current owner of the parcel being split to allow this project to move forward), and turned it from the normal 3-6 month process into one that is currently well over a year, ostensibly to delay and increase the costs of this project. The City's actions creating that delay and increased costs are violations of both the Subdivision Map Act and the Housing Crisis Act. While we have left that matter in the hands of Frontier and its consultant Blu Croix to address with the City, the City's actions in that subdivision do show the continued bad faith actions by the City.

C. A.3.a. – Land Designation

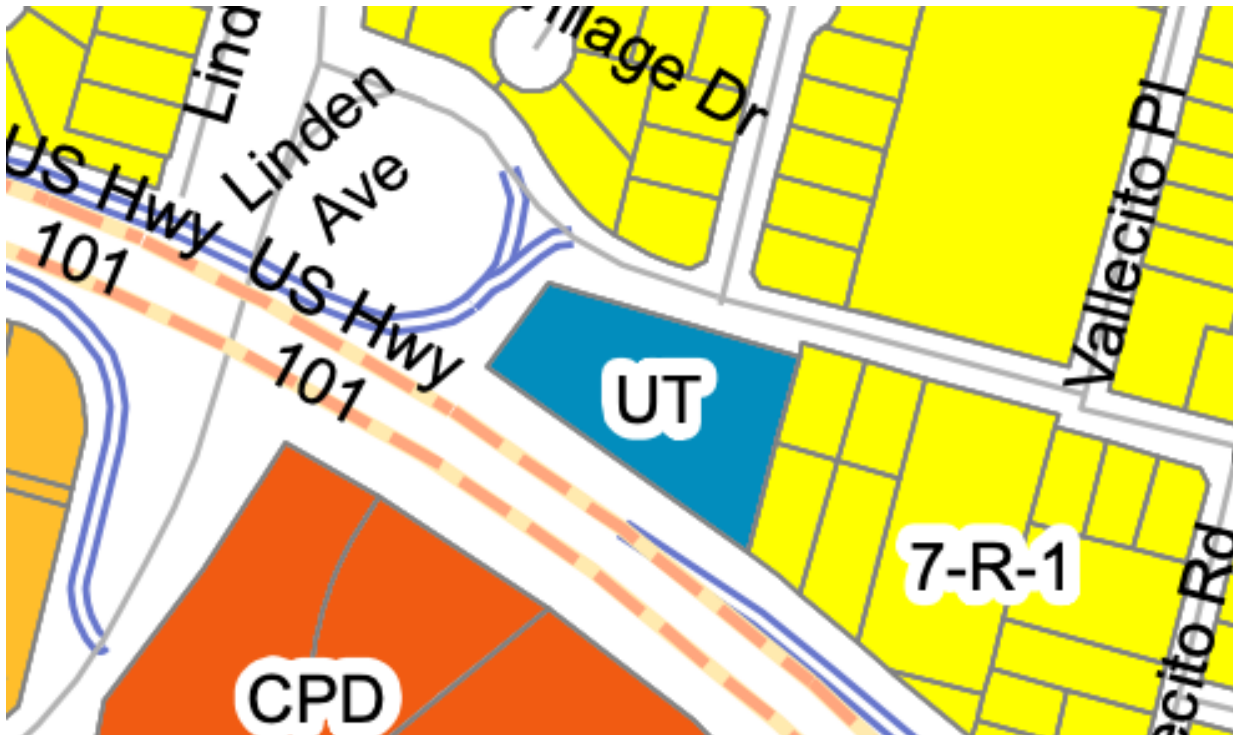
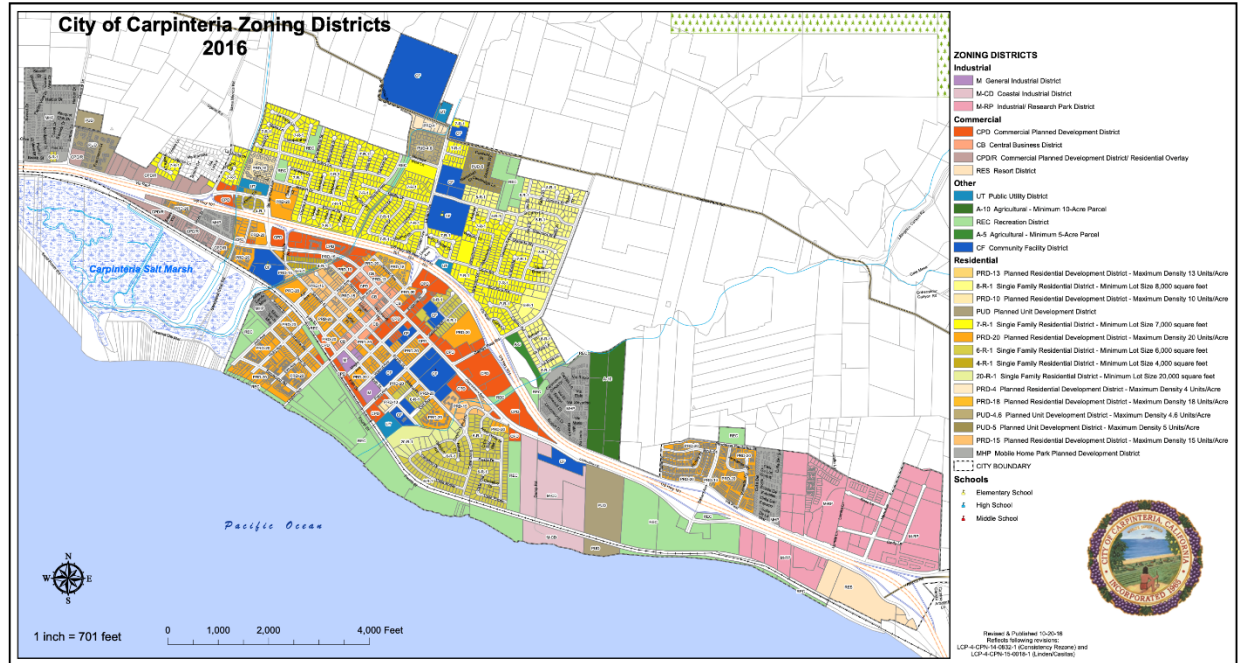
Section A.3.a. of the incomplete letter states that “[t]he plan set cover sheet incorrectly identifies the existing land designation and zoning district applicable to the site.” This is simply a false statement asserted by Carpinteria in bad faith.

As highlighted in red, the submitted plans state the zone as “UT (Public Utilities District)”.

PROJECT & CODE ANALYSIS	
<u>PROPERTY INFORMATION</u>	
OWNER: FRONTIER CALIFORNIA, INC. (current) CARPINTERIA GROUP LLC (pending)	
SITE ADDRESS: 5115 OGAN RD CARPINTERIA CA 93013	
PARCEL INFORMATION: CITY OF CARPINTERIA MAP BK # 006 -PG 16 TRACK: N/A PARCEL #: 22	
ASSESSORS PARCEL NUMBER: 003-161-022	
<u>ZONING REQUIREMENTS & INFORMATION:</u>	
GENERAL PLAN: LOW DENSITY RESIDENTIAL	
ZONE: UT (PUBLIC UTILITIES DISTRICT)	
SETBACKS: FRONT: (n/a); INTERIOR: (n/a)	NOT APPLICABLE TO PROJECT
MAX BUILDING HEIGHT: PROPOSED 218 FT	NOT APPLICABLE TO PROJECT
PARKING REQUIRED: (-)	NOT APPLICABLE TO PROJECT
LOT COVERAGE - ALLOWABLE: N/A IN UT ZONE	NOT APPLICABLE TO PROJECT
CODE ANALYSIS:	




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The Carpinteria zoning map shows that the property is in the zone of: “UT (Public Utilities District)”, which exactly matches the project plans submitted.



ZONING DISTRICTS






Industrial

-  M General Industrial District
-  M-CD Coastal Industrial District
-  M-RP Industrial/ Research Park District

Commercial

-  CPD Commercial Planned Development District
-  CB Central Business District
-  CPD/R Commercial Planned Development District/ Residential Overlay
-  RES Resort District

Other

-  UT Public Utility District
-  A-10 Agricultural - Minimum 10-Acre Parcel
-  REC Recreation District
-  A-5 Agricultural - Minimum 5-Acre Parcel
-  CF Community Facility District

Therefore, there is no basis for the incomplete letter's assertion that the zoning is incorrect on the plans and this assertion appears to be in bad faith. If the City feels the Property's zoning is different than what is shown on the City's zoning map then please clarify what zoning the City believes is correct. However, even if there were inconsistencies in the Project Description in the submitted plans, this would be a consistency item to be identified and addressed after the project application is deemed complete. The City's refusing to acknowledge the application's completeness in regards to the zoning is creating delay and increased costs that is a violation of the Housing Crisis Act.

D. A.3.b. – Landscape Plan

Section A.3.b. of the incomplete letter states that "Please revise the landscaping and irrigation plans to include at least one corresponding sheet for each floor that depicts a complete master planting plan and plant list along with quantities, container sizes and spacing." The submitted plans do include a complete master planting plan and plant list along with quantities, container sizes and spacing. However, there is no requirement for a "floor by floor" landscape plan as a requirement for completeness in the City's submittal requirement checklist. The requirements for completeness are addressed by Government Code section 65943(a).

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Government Code Section 65943(a) provides: “Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. **If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency’s submittal requirement checklist.** In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency’s determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.”

As shown below, the City’s submittal requirement checklist does not include the requirement of a “floor by floor” landscape plan as shown below. Therefore, under the California Permit Streamlining Act it cannot be a requirement for completeness.

In regards to the incomplete letter’s statements about the hanging gardens, the hanging gardens have been removed from the project and so these comments are moot. However, even if there were inconsistencies in the submitted landscape and irrigation plans, this would be a consistency item to be identified and addressed after the project application is deemed complete. The City’s refusing to acknowledge the application’s completeness in regards to the landscape plan is creating delay and increased costs that is a violation of the Housing Crisis Act.

However, even if there were inconsistencies in the submitted landscape plans, this would be a consistency item to be identified and addressed after the project application is deemed complete. The City’s refusing to acknowledge the application’s completeness in regards to the landscape plans is creating delay and increased costs that is a violation of the Housing Crisis Act.

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Community Development Department

LANDSCAPE PLAN – REQUIRED INFORMATION



Landscape Plans should include the following information:

1. Name of Applicant
2. Location of Project Site/Address
3. Name of Architect/Agent/Person drawing the plans
4. Landscape Plans must be drawn to scale and the scale shall be noted on the plan.
The scale of the plans shall be the same as the site plan and printed on the same size paper.
5. The location of the area to be landscaped on the property to be specified.
6. The location of all the new plants and trees, with existing trees and plants to remain noted on the plans.
7. All new plantings to be specified on plans, with the botanical and common names given along with the plant container sizes and plant quantities also specified on plans.
8. Description of the types of irrigation systems to be used, including but not limited to location of irrigation clocks, backflow preventers and irrigation valves.

*All applicants that are not single-family dwellings (residential)
must also include the following:*

1. A plant list with botanical and common names, quantities, sizes, recommended spacing of mass plantings, and any special planting notes. Planting details and tree stake details shall also be included.
2. A separate irrigation drawing with the location, type and size of the main hook-up, irrigation clocks, backflow preventer, irrigation valves, pressure lines, sleeves, sprinkler heads and nozzles, pipe sizes, and an irrigation legend showing symbols, manufacturer, model numbers, description of items, special installation notes, and installation details of all valves and heads.

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E. A.3.c. – Utility Plan

Section A.3.c. of the incomplete letter states: “As requested previously, please provide a Utility Plan that identifies the locations of utility meters and equipment, including but not limited to, transformers, backflow prevention devices, and similar types of utility infrastructure. These items have not been provided as part of the Resubmittal. Per the letter from the Carpinteria Sanitary District previously provided as an attachment to our first letter of incompleteness, the applicant must also demonstrate whether the existing sanitary sewer network in the project area has sufficient capacity to serve the proposed project. If upgrades to the sanitary sewer system are required to serve the project, these improvements must be shown on the utility plans as well. See the attached comments from the Carpinteria Sanitary District and the recently submitted comments and application form from the Carpinteria Valley Water District.”

The submitted plans do include a utility plan that demonstrates the proposed major utility connections and locations. However, there is no requirement for “the locations of utility meters and equipment, including but not limited to, transformers, backflow prevention devices, and similar types of utility infrastructure” nor that “the applicant must also demonstrate whether the existing sanitary sewer network in the project area has sufficient capacity to serve the proposed project. If upgrades to the sanitary sewer system are required to serve the project, these improvements must be shown on the utility plans as well. See the attached comments from the Carpinteria Sanitary District and the recently submitted comments and application form from the Carpinteria Valley Water District.” as a requirement for completeness in the City’s submittal requirement checklist. The requirements for completeness are addressed by Government Code section 65943(a).

This is once again controlled by Government Code Section 65943(a).

Government Code Section 65943(a) provides: “Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. **If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency’s submittal requirement checklist.** In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency’s determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list

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and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.”

Notably, as shown below the entire requirement in the City’s submittal requirement checklist regarding utility plans is : “UTILITY PLAN”. There is nothing beyond those two words to specify the requirements the City is now retroactively attempting to impose on this project. As the retroactive requirements are not in the submittal requirement checklist, they cannot be completeness items.

ROOF PLAN

UTILITY PLAN

LANDSCAPE PLAN – refer to attached requirements

Below is the entire page from the City’s submittal requirement checklist to further demonstrate there is nothing in the checklist beyond those two words. However, even if there were inconsistencies in the submitted utility plans, this would be a consistency item to be identified and addressed after the project application is deemed complete. The City’s refusing to acknowledge the application’s completeness in relation to the Utility Plan requirement is creating delay and increased costs that is a violation of the Housing Crisis Act.

B. PLANS –

2 full-size sets+ 1 half-sized (or 11x17) set + 1 digital set unless otherwise directed by CDD staff.
PLEASE FOLD ALL OVERSIZE PLANS TO 8-1/2" X 11" W/ TITLE BLOCK FACING UP.

SITE PLAN

- ☐ Scale (1/4" = 1' or 1" = 20') and north arrow
- ☐ Property lines and required setbacks with dimensions
- ☐ Adjacent street locations/names and widths
- ☐ Existing/proposed buildings, parking, entrances/exits
- ☐ Footprint of all buildings on adjacent lots
- ☐ Plan preparer's name, address and phone number
- ☐ Accessory structures and usage
- ☐ Trees (type, height, diameter at breast height, dripline) shrubs and other vegetation

SITE TOPOGRAPHIC/GRADING/DRAINAGE PLAN

- ☐ Direction of drainage indicated with arrows
- ☐ Adjacent grades within five feet (5') of the site boundaries

BUILDING ELEVATIONS

- ☐ Scale (1/4" = 1') and elevations labeled (north, east, south, west)
- ☐ Building heights from finished grade
- ☐ Windows, doors, stairs, railings, major architectural features
- ☐ Application of solar access guidelines

FLOOR PLANS

- ☐ Scale (1/4" = 1')
- ☐ Use(s) and dimensions of all rooms including garage

CROSS-SECTIONS

- ☐ Project site cross-section
- ☐ Building cross-section

ROOF PLAN

UTILITY PLAN

LANDSCAPE PLAN – refer to attached requirements

RENDERINGS (not required for ADUs)

- ☐ Colored renderings of all four exterior building elevations

C. ELECTRONIC COPY OF PLANS AND RENDERINGS – PDF format

D. PHOTOGRAPHS

- ☐ Photos with labels of the site, showing existing conditions and/or buildings on property
- ☐ Photos with labels of immediately adjacent buildings and properties

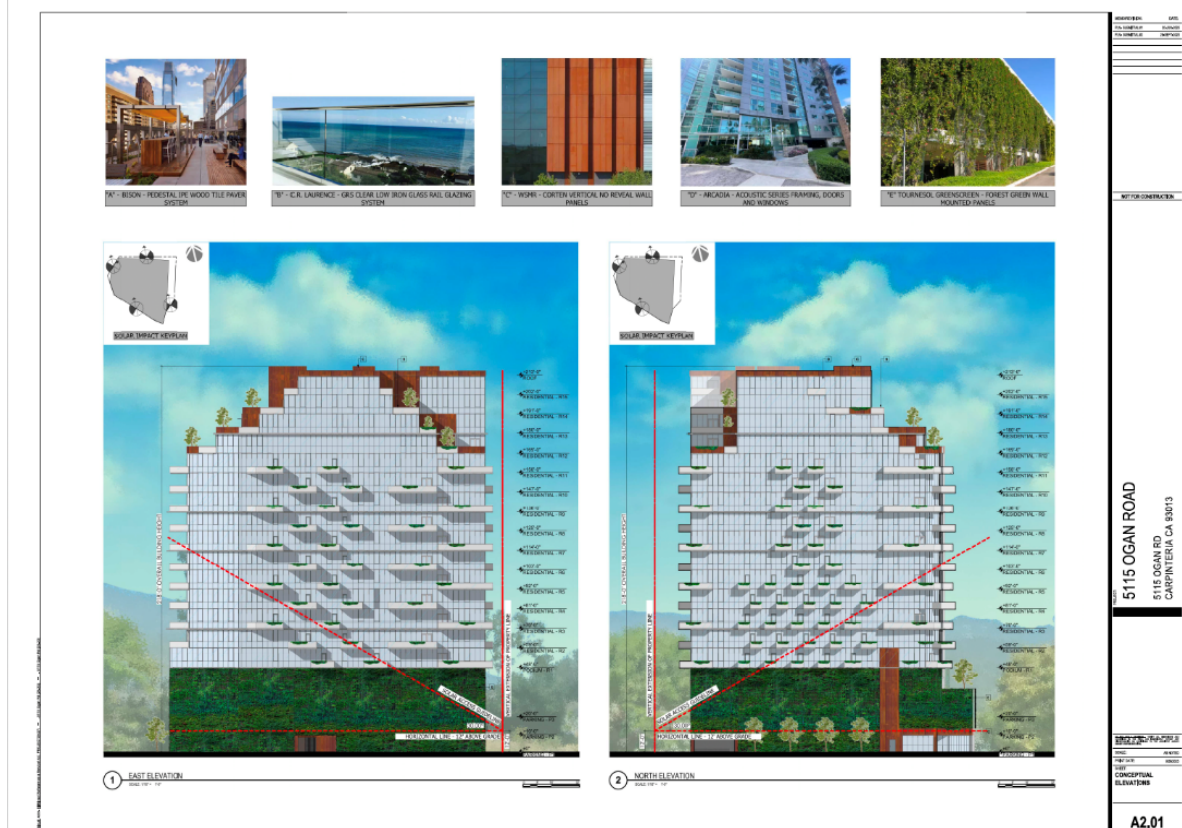
E. COLORS AND MATERIALS BOARD – 1 set, 8-1/2" X 11" (not required for ADUs)

(more on next page)

F. A.3.d. – Color Renderings of Elevations

Section A.3.d. of the incomplete letter states: “the renderings are internally inconsistent and the reduced plan set has different versions of the renderings and shadow depictions than the full size set. Please revise the elevations sheets in both sets to ensure the proposed building colors and exterior materials are depicted.” The submitted plans do include a color renderings of the elevations as confirmed in the incomplete letter which also states: “Thank you for providing revised plan sheets with the requested elevation drawings.” The color renderings of the elevations submitted were internally consistent as shown below.





However, even if there were inconsistencies in the submitted color renderings of the elevations, this would be a consistency item to be identified and addressed after the project application is deemed complete. The City's refusing to acknowledge the application's completeness in regards to the color renderings of the elevations is creating delay and increased costs that is a violation of the Housing Crisis Act.

Despite that colored elevations that satisfy the requirements of the City's submittal checklist, Sheets A2.01 and A2.02 have been revised to show the drafted elevation with material annotation makers that relate to the revised image materials as well as the new elevation material legend and color/finish legends. Material images have also been updated to remove contextual background and show specific material intent and color perspective elevations have been included. Sheets A2.03 and A2.04 have been added so that each sheet relates to the specific cardinal direction.

G. A.3.e. – Color/Materials Board

Section A.3.e. of the incomplete letter states: "The submitted plan set continues to show the proposed colors in some of the sheet legends, and the exterior colors continue to be applied inconsistently in the plan set sheets and remains incomplete. Please revise the plan set to ensure that the colors and materials board are applied consistently throughout."

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However, even if there were inconsistencies in the submitted colors were inconsistent, this would be a consistency item to be identified and addressed after the project application is deemed complete. The City's refusing to acknowledge the application's completeness in regards to the colors of the project materials is creating delay and increased costs that is a violation of the Housing Crisis Act.

Nonetheless, newly added sheet A2.05 indicates the proposed color and materials board for the current exterior materials basis of design for further clarification.

H. A.3.f. – Tier 4 Storm Water Management

Section A.3.f. of the incomplete letter states: "the Tier 3 Stormwater Management Plan provided with the Resubmittal utilizes an incorrect threshold. Your response states the adjacent parcel should not be included in the calculations. Yet, the proposed building itself exceeds the threshold, and any offsite new impermeable surfaces serving the project should also be included in a revised Tier 4 Storm Water Management Program."

The City continues to insist that this project requires a Tier 4 Storm Water Management Plan despite clear statutory guidance stating that the project only requires a Tier 3 Storm Water Management Plan given the project will create a total of 21,900SF of new impervious area. The submitted Storm Water Management Plan clearly states this quantity of new impervious area as highlighted in red below:

I. Project Data

Table 1. Project Data

Project Description	Multifamily Residential Project
Project Location	5115 Ogan Road, Carpinteria, CA, USA
Project Phase No.	Not Applicable
Project Type and Description	130 Unit Multifamily Residential Building with parking
Total Project Site Area (acres)	0.59 acres
Total New Impervious Surface Area	21,900 SF
Total Replaced Impervious Surface Area	2,530 SF
Total Pre-Project Impervious Surface Area	2,530 SF±
Total Post-Project Impervious Surface Area	24,430 SF
Net Impervious Area	24,430 SF
Applicable Requirements	Tier 3
Watershed Management Zone	1
Design Storm Frequency and Depth	2.4 inches (95 th percentile)
Urban Sustainability Area	The project is not in an Urban Sustainability Area

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Tier 4 Storm Water Management Plans are only required when the project creates greater than 22,500 square feet of impervious surface. Since this project creates less than 22,500 square feet of impervious surface, the submitted Storm Water Management Plan is correct. As a courtesy to the City, the Project Data chart above has been included in the revised civil plans being resubmitted.

However, even if the submitted Storm Water Management Plan needed modification, this would be a consistency item to be identified and addressed after the project application is deemed complete. The City's refusing to acknowledge the application's completeness in regards to the Storm Water Management Plan is creating delay and increased costs that is a violation of the Housing Crisis Act.

I. A.3.g. – Grading Plan needs right of way easement - Updated

Section A.3.g. of the incomplete letter states: "The Conceptual Grading Plan needs to be revised to reflect the updated Preliminary Title report dated July 29, 2025. The County of Santa Barbara right of way is included. However, Sheet C-1 needs to be revised to include the City of Carpinteria's right of way easement located along the north boundary of the project parcel." The request for depiction of the City's right of way easement in the Grading Plan in the incomplete letter goes well beyond that in the planning submittal checklist as shown highlighted in red below:

- ☐ Accessory structures and usage
- ☐ Trees (type, height, diameter at breast height, dripline) shrubs and other vegetation

SITE TOPOGRAPHIC/GRADING/DRAINAGE PLAN

- ☐ Direction of drainage indicated with arrows
- ☐ Adjacent grades within five feet (5') of the site boundaries

BUILDING ELEVATIONS

- ☐ Scale (1/4" = 1') and elevations labeled (north, east, south, west)

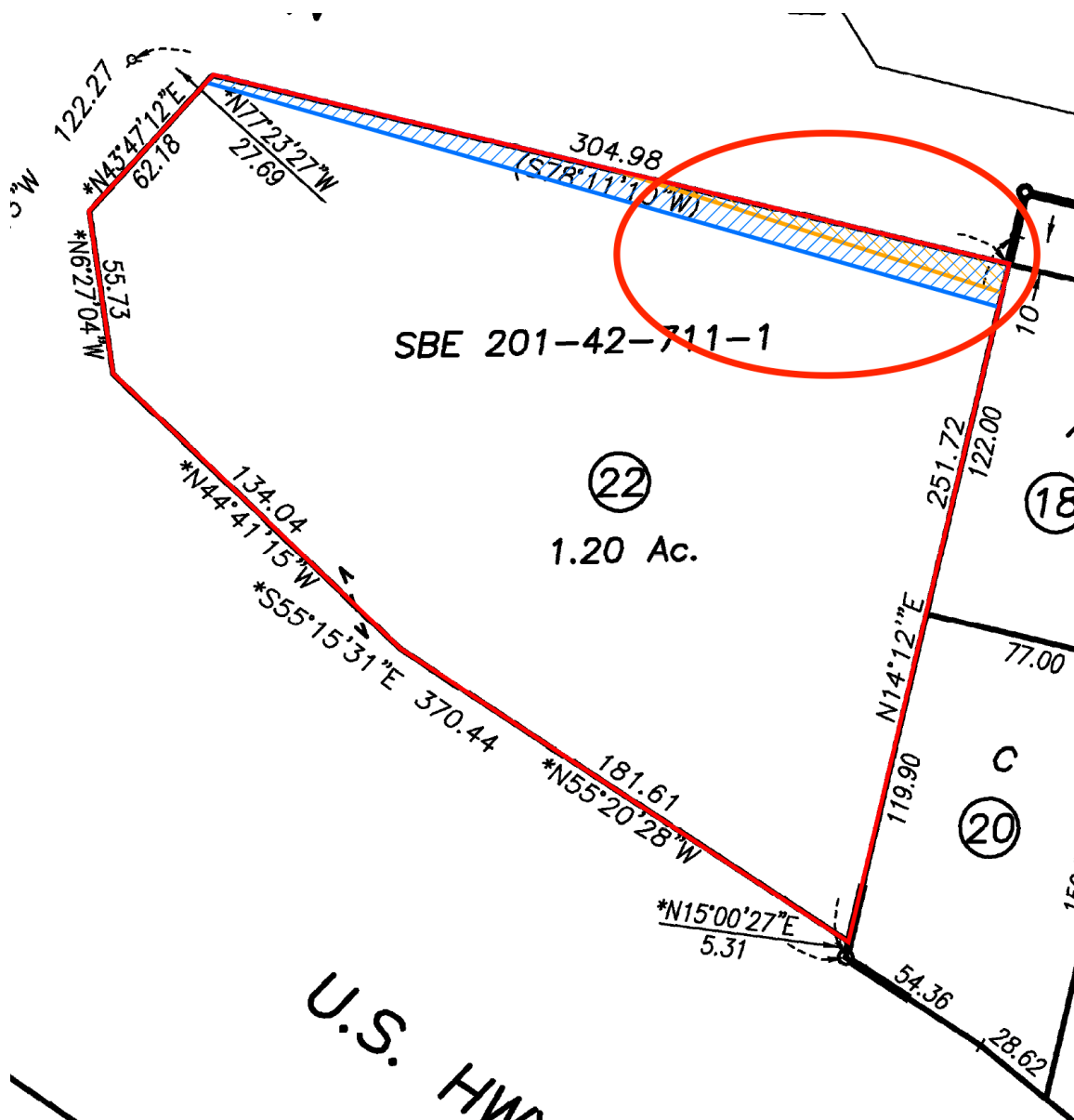
It appears the City is attempting to rely on item 5 in the application which states "Are there any restrictions (deed restriction, easements, etc.) that affect the property? If so, what are they?" but this is once again controlled by Government Code Section 65943(a).

Government Code Section 65943(a) provides: "Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. **If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency's submittal requirement checklist.** In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. If the

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written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description."

Furthermore, the City's right of way easement is located to the east of the project site and is not on the subdivided portion of the property as shown circled in red below.



Therefore, the City's right of way easement is not part of the project site. However, even if there is disagreement about the location of the easement, this would be a consistency item to be identified and addressed after the project application is deemed complete. The City's refusing to acknowledge the application's completeness in regards to the easement is creating delay and increased costs that is a violation of the Housing Crisis Act.

J. A.3.h. – Solar Renderings

Section A.3.h. of the incomplete letter states: "the solar renderings are incorrectly drawn and show conflicting information regarding shadows and angles of light." The request to revise the solar renderings in the incomplete letter goes well beyond that in the planning submittal checklist. This is once again controlled by Government Code Section 65943(a).

Government Code Section 65943(a) provides: "Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. **If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency's submittal requirement checklist.** In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description."

As shown below, the City's submittal checklist only requires that solar access compliance in residential zones and the project is not located in a residential zone as it is located in the Public Utilities District as demonstrated above.

- J. SOLAR ACCESS COMPLIANCE** – Projects in residential zones shall provide verification of solar access by providing a site plan and elevation drawing(s), as described in the "Instructions for Determining Solar Impacts" handout: https://carpinteriaca.gov/wp-content/uploads/2025/05/SolarGuidelinesHandout_2025.pdf

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Regardless, solar access compliance was submitted as acknowledged in the City's incomplete letter above. Even if there is disagreement about the accuracy of the solar access compliance submitted, this would be a consistency item to be identified and addressed after the project application is deemed complete. The City's refusing to acknowledge the application's completeness in regards to the solar access compliance is creating delay and increased costs that is a violation of the Housing Crisis Act.

Nonetheless, in an effort to go above and beyond Sheets A2.02, and A2.03 have an updated solar impact key plan to reflect the similar key plan provided in the City's Solar Guidelines Handout. There are two northerly property lines and those elevation drawings are provided on sheets A2.02 and A2.03

K. A.4. – Project Description

Section A.4. of the incomplete letter states: "please provide an accurate and complete project description. We assume from the application materials that the project proposes an 18-story, 130-unit multifamily residential development project consisting of a mix of studio, 1-, 2-, and 3-bedroom units with shared amenities. It appears that the first three stories of the building would consist of up to 128-spaces of indoor parking and parking for 84 bicycles. However, the Resubmittal includes inconsistent calculations and information about the square foot calculations of the sizes of the residential units, parking, storage, amenities, elevators, trash chutes, outdoor areas, and circulation as well as inconsistent grading amounts. Please revise the project description and plan sheets to ensure the requested information is accurate and consistent."

As a preliminary matter, the request for the description of the project in the incomplete letter goes well beyond that in the planning submittal checklist.

This is once again controlled by Government Code Section 65943(a).

Government Code Section 65943(a) provides: "Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. **If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency's submittal requirement checklist.** In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be

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complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description."

As you can see below, the entirety of the project description in the project submittal checklist is five items:

A. APPLICATION INFORMATION

- ☐ All questions fully and honestly answered
- ☐ APN and street address provided
- ☐ Complete project description
- ☐ Original signature of project owner
- ☐ Application deposit

We have provided those five items as shown below:

PROJECT DESCRIPTION / SCOPE OF WORK
<p>THIS PROPOSED PROJECT IS A 130 UNIT MULTIFAMILY RESIDENTIAL PROJECT THAT INCLUDES 26 LOW INCOME UNITS (EQUALLING 20% AS DEFINED IN THE GOVERNMENT CODE). THIS PROJECT INCLUDES A MULTILEVEL, FOR RENT, APARTMENT BUILDING TO BE CONSTRUCTED OVER A COVERED PARKING GARAGE WITH 128 TOTAL PARKING SPACES OF WHICH 6 ARE ADA VAN SPACES. THERE ARE 84 BICYCLE PARKING SPACES PROVIDED THROUGHOUT THE COVERED GARAGE. THE ENTIRE PROJECT WILL BE SPRINKLERED PER CBC AND WILL REQUIRE A SEPARATE PERMIT.</p> <p>THE PROPOSED PROJECT WILL HAVE APPROXIMATELY 153,669 NET SQUARE FEET OF RESIDENTIAL LIVING SPACE. THE TOTAL BUILDING AREA IS 263,988(GROSS), 262,549 NET SQUARE FEET AND INCLUDES LOBBIES, CORRIDORS, MECHANICAL SPACES, A PODIUM DECK FITNESS GYM AND SWIMMING POOL AND OTHER RESIDENTIAL AMENITIES. THE PROJECT WILL INCLUDE BOTH COMMON OPEN SPACES AND SOME UNITS WILL HAVE PRIVATE DECKS.</p> <p>A SEPARATE GRADING & SHORING PERMIT WILL BE PURSUED FOR 190 C.Y. OF CUT AND 150 C.Y. OF FILL. ALL UTILITIES ROUTED WITHIN THE PROPERTY WILL BE UNDERGROUND AND SEEK ANY PERMITS AND COORDINATION REQUIRED BY THE CITY OR UTILITY AGENCIES. THE BUILDINGS WILL BE FULLY ELECTRIC WITH SOLAR PV ARRAY(S) AND BATTERY BACKUP EQUIPMENT AS SPECIFIED AND PERMITTED BY A SEPARATE SOLAR CONSULTANT.</p> <p>THE PROJECT WILL INCLUDE NEW LANDSCAPE DESIGN, NEW ROAD AND HARDSCAPE SURFACES AS WELL AS IRRIGATION. SEE L SHEETS FOR THE ABOVE INFORMATION AS WELL AS PLANT LISTS. THERE WILL BE BOTH TREE REMOVAL AND REPLACEMENT(S) AND SHALL BE PERMITTED AS REQUIRED.</p> <p>THE PROJECT INCLUDES A SPLIT OF THE EXISTING PARCEL AND TENTATIVE PARCEL MAP PROJECT NUMBER 24-2317-CPD/TMP IS INCORPORATED INTO THIS APPLICATION. THE NEW CONSTRUCTION WILL BE LOCATED ON THE RESULTING WESTERN PARCEL.</p> <p>THE PROJECT WILL INCLUDE A SEPERATE PUBLIC WORKS PERMIT FOR WORK WITHIN THE PUBLIC RIGHT OF WAY INCLUDING SIDEWALKS, CURB AND GUTTER, DRIVEWAY APRON(S) AND OTHER ELEMENTS AS REQUIRED.</p> <p>IT IS NOTED THAT THIS PROJECT INVOKES "BUILDER'S REMEDY" PURSUANT TO GOVERNMENT CODE SECTION 65589.5(d)(5) AND WITHIN THE PURVIEW OF THIS LAW THE FOLLOWING PLANS MAY NOT BE CONSISTENT WITH THE LOCAL CITY CHARTER, GENERAL PLAN, ZONING MAP & ORDINANCE. THIS PROJECT AND THE DESIGN INCLUDE PROPOSED EXCEPTIONS INCLUDING AND NOT LIMITED TO DENSITY (DWELLING UNITS/ACRE), BUILDING HEIGHT, BUILDING SETBACKS, AND VEHICLE PARKING, AND ARE AN ATTEMPT TO PROVIDE A RESPECTFUL AND THOUGHTFUL SOLUTION TO THE LACK OF HOUSING IN THE REGION.</p>

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Even if there is disagreement about the accuracy of the project description submitted, this would be a consistency item to be identified and addressed after the project application is deemed complete. The City's refusing to acknowledge the application's completeness in regards to the project description is creating delay and increased costs that is a violation of the Housing Crisis Act.

L. A.5. – Easements

Section A.5. of the incomplete letter states: "Please provide a correct description of all easements existing and proposed which will impact the property. In order to process a DP request, 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. In your revisions, you provided existing easement information, however, this information remains incomplete. Please revise this information to include 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, and where of record, each shall be clearly identified by reference to the accompanying preliminary report of title. The previously requested letters to utilities regarding potential future easements are also still required to determine the scope of a complete project description. Please send letters to Southern California Edison, Southern California Gas Company, Frontier Communications, and Cox Communications and request they provide any easement requirements to the City (CMC §16.12.150.C.5). Note: Southern California Edison provided their project submittal requirements on July 11, 2025 and their information was attached to first incompleteness letter."

As a preliminary matter, the request for additional description of the easements in the incomplete letter including 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, and where of record, each shall be clearly identified by reference to the accompanying preliminary report of title goes well beyond that in the planning submittal checklist. Again, this is another Government Code Section 65943(a) issue.

Government Code Section 65943(a) provides: "Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. **If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency's submittal requirement checklist.** In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the

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application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description."

As called out above, the City's submittal checklist does not contain any reference to easements whatsoever and the entire requirement in the City's application regarding easements is : "5. Are there any restrictions (deed restriction, easements, etc.) that affect the property? If so, what are they?"

We have provided the actual recorded easements for the parcel along with the title report for the property.

As a secondary matter, even if the City were allowed to expand its submittal requirements in violation of the California Permit Streamlining Act, the request by the City in its incomplete letter is "Please revise this information to include 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, and where of record, each shall be clearly identified by reference to the accompanying preliminary report of title." All of these are contained in the recorded easement documents already submitted.

The City's incomplete letter goes on to demand that we "Please send letters to Southern California Edison, Southern California Gas Company, Frontier Communications, and Cox Communications and request they provide any easement requirements to the City" and this is not even within the potential scope of "5. Are there any restrictions (deed restriction, easements, etc.) that affect the property? If so, what are they?" given that the question is framed in the present tense and does not address future hypothetical easements.

Even if there is disagreement about the accuracy of the easements submitted, this would be a consistency item to be identified and addressed after the project application is deemed complete. The City's refusing to acknowledge the application's completeness in regards to the easements is creating delay and increased costs that is a violation of the Housing Crisis Act.

M. A.6. – Drainage

Section A.6. of the incomplete letter states: "Thank you for submitting the revised grading and drainage plan set. However, this item remains incomplete as the Resubmittal does not incorporate the foundation recommendations in the preliminary geotechnical report. Revise the conceptual grading plan to remove proposed private stormwater facilities from the public right-

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of-way or include a request to the City for a proposed encroachment into the public right of way.”

As a preliminary matter, the request to incorporate the foundation recommendations in the preliminary geotechnical report in the grading and drainage plan set goes well beyond that in the planning submittal checklist. Again, this is another Government Code Section 65943(a) issue.

Government Code Section 65943(a) provides: “Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. **If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency’s submittal requirement checklist.** In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency’s determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.”

Notably, the entire requirement in the City’s submittal requirement checklist regarding drainage is as highlighted in red below:

- ☐ Accessory structures and usage
- ☐ Trees (type, height, diameter at breast height, dripline) shrubs and other vegetation

SITE TOPOGRAPHIC/GRADING/DRAINAGE PLAN

- ☐ Direction of drainage indicated with arrows
- ☐ Adjacent grades within five feet (5') of the site boundaries

BUILDING ELEVATIONS

- ☐ Scale (1/4" = 1') and elevations labeled (north, east, south, west)

As acknowledged in the City’s incomplete letter above, we have already provided all of the required information. Even if there is disagreement about the accuracy of the grading and drainage plans submitted, this would be a consistency item to be identified and addressed after the project application is deemed complete. The City’s refusing to acknowledge the application’s completeness in regards to the grading and drainage plans is creating delay and increased costs that is a violation of the Housing Crisis Act.

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Nonetheless, as a courtesy to the City we have provided additional information in the resubmitted civil sheets.

N. A.7 – Intent to serve/Will serve

Section A.7. of the incomplete letter states: “Your Resubmittal included a Letter of Intent to Serve for case no. 24-2317 CDP/ TPM. This is not a will serve letter for this project. Please contact Spencer Seale at (805) 331-0087 or spencer@cvwd.net to obtain a will-serve letter for your project”. As acknowledged by the City, a will serve letter for the property has been submitted even though this is not a requirement of the project. As stated in the City’s submittal checklist and highlighted in red below, will serve letters are only required for ADU’s:

N. WATER AND SANITARY DISTRICT INTENT TO SERVE LETTERS (for ADUs ONLY) – Intent to Serve Letters are required for all ADU/JADU applications to ensure adequate water and sewer capacity and service are available. Please contact Syndi Souter at (805) 755-4405 or SyndiS@carpinteriaca.gov to obtain a tracking number to obtain these letters. Please contact the districts directly with any questions on their application process to apply for a letter.

This is another Government Code Section 65943(a) issue which provides: “Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. **If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency’s submittal requirement checklist.** In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency’s determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.”

This issue is easily resolvable by simply reviewing the City’s submittal requirement checklist. Since the entire requirement in the City’s submittal requirement checklist regarding intent to serve letters is limited to projects that are ADU’s and this project is not an ADU project, there is no requirement in the submittal requirement checklist.

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Nonetheless, a will serve letter already has been submitted as acknowledged by the City above. Even if there is disagreement about the accuracy of the will serve letter submitted, this would be a consistency item to be identified and addressed after the project application is deemed complete. The City's refusing to acknowledge the application's completeness in regards to the will serve letter is creating delay and increased costs that is a violation of the Housing Crisis Act.

O. A.8 – Fees

In reviewing the fees that have just been provided to us on November 24, 2025, it is apparent that a large portion of the fees are illegal.

As a preliminary matter, municipalities are only allowed to actually recover the costs associated with the work performed. In reviewing the sheet provided, there are three sets of initials: BM, NB, MM, and MF who are shown to have worked on this project.

I checked each of these initials against Transparent California and the associated people (and their annual salaries) are:

BM: Bret McNulty - Annual Salary - Not shown yet

NB: Nicholas Bobroff - Annual Salary - \$111,272.94

MM: Megan Musolf - Annual Salary - \$17,976.00

MF: Mindy Fogg - Annual Salary - \$23,614.00

Assuming that Nicholas Bobroff is the highest paid person in the department as he is the Community Development Director, that means that the highest possible hourly rate is \$54.50 per hour.

However, in reviewing the invoice it appears that the City of Carpinteria is charging significantly more than that for all of the people involved. The rate being charged for each is:

BM: Bret McNulty - \$217.33 per hour

NB: Nicholas Bobroff - 301.44 per hour

MM: Megan Musolf - \$148.27 per hour

MF: Mindy Fogg - \$224.72 per hour

This means that at a minimum the City is illegally charging a 4x multiple on their actual cost.

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As well, as this is a housing development under Government Code Section 65589.5, the fees are limited to those on the City's fee schedule. However, the vast majority of charges on this matter have been legal fees paid to outside counsel. Notably, City Attorney fees are not on the City's fees schedule nor should an applicant be charged for the City (in this case) to consult their legal counsel on how to violate the State Housing Laws as has been occurring throughout this process.

Under Government Code Section 65008, the City cannot charge more for this project based upon the fact that it includes a low-income component. That appears to be exactly what has occurred.

Please provide the following:

1. An invoice based upon the actual salaries of the four City employees without the 4x multiplier (or more) on their hourly rates; and
2. An invoice that removes the City Attorney fees.

If you choose not to comply with State law, consider this a Public Records Act request for the following items:

1. All invoices related to this project from Brownstein Hyatt Farber Schreck.
2. All current salary information for Bret McNulty, Nicholas Bobroff, Megan Musolf, and Mindy Fogg.
3. All timesheets showing work on this project by Bret McNulty, Nicholas Bobroff, Megan Musolf, and Mindy Fogg.
4. All internal correspondence regarding this project for the City of Carpinteria.
5. All invoices for all other development projects issued since 2020.

We will pay the appropriate and reasonable fees associated with the project as soon as Carpinteria comes into compliance with the State Housing Laws.

Conclusion

We look forward to bringing this much needed housing project to the City of Carpinteria. Rather than force the City to go through costly litigation, we respectfully suggest that the City deem the application complete and come into compliance with the California State Housing Laws including, but not limited to, the Housing Accountability Act, the Housing Crisis Act, and the Permit Streamlining Act.

Ben Eilenberg
Carpinteria Group LLC

Cc: Richard B. Jacobs